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CONVENTION ON RELATIONS WITH THE  
FEDERAL REPUBLIC OF GERMANY  
AND A PROTOCOL TO  
THE NORTH ATLANTIC TREATY

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M E S S A G E

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION ON RELATIONS BETWEEN  
THE THREE POWERS AND THE FEDERAL  
REPUBLIC OF GERMANY, SIGNED AT  
BONN ON MAY 26, 1952

AND

A PROTOCOL TO THE NORTH ATLANTIC TREATY  
SIGNED AT PARIS ON MAY 27, 1952



JUNE 2, 1952.—Referred to the Committee on Foreign Relations

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CONVENTION ON RELATIONS WITH THE FEDERAL  
REPUBLIC OF GERMANY AND A PROTOCOL TO THE  
NORTH ATLANTIC TREATY

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M E S S A G E

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION ON RELATIONS BETWEEN THE THREE POWERS AND  
THE FEDERAL REPUBLIC OF GERMANY, SIGNED AT BONN ON MAY  
26, 1952, AND A PROTOCOL TO THE NORTH ATLANTIC TREATY, SIGNED  
AT PARIS ON MAY 27, 1952

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JUNE 2, 1952.—The injunction of secrecy was removed from the said convention  
and protocol and, together with the message of transmittal, the report by the  
Secretary of State and all accompanying papers, were referred to the Com-  
mittee on Foreign Relations and ordered to be printed for the use of the Senate

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THE WHITE HOUSE, *June 2, 1952.*

*To the Senate of the United States:*

I transmit herewith for the consideration of the Senate a copy of  
the convention on relations between the Three Powers and the Federal  
Republic of Germany, signed by the United Kingdom, the French  
Republic, the United States, and the Federal Republic of Germany at  
Bonn on May 26, 1952, to which is annexed the Charter of the Arbitra-  
tion Tribunal. I also transmit a copy of a protocol to the North  
Atlantic Treaty, covering security guaranties to the members of the  
European Defense Community by the parties to the North Atlantic

Treaty, signed at Paris on May 27, 1952. I request the advice and consent of the Senate to the ratification of these two documents.

In addition, I transmit for the information of the Senate a number of related documents, including a report made to me by the Secretary of State; three additional conventions with the Federal Republic of Germany related to the main convention; the treaty constituting the European Defense Community; a declaration made by the United States, the United Kingdom, and the French Governments at the time of the signing of this treaty; and the treaty constituting the European Coal and Steel Community.

Together these documents constitute a great forward stride toward strengthening peace and freedom in the world. They are all concerned directly with Europe, but they have world-wide significance.

Three main purposes will be accomplished by these documents:

First, they will restore the Federal Republic of Germany to a status which will enable it to play a full and honorable part in the family of nations.

Second, they will create a common defense organization for six European countries, including the Federal Republic of Germany, and associate that common defense organization with the North Atlantic Treaty. This will greatly strengthen the defense of Europe and the free world against any aggression.

Third, they will constitute additional major steps toward unity among the countries of Western Europe—which is so important for peace and progress in that area.

These purposes are all interrelated, and they all serve the common objective of the free nations to create conditions of peace, based on freedom and justice, in accordance with the principles of the United Nations Charter.

It has been a major objective of the United States to help bring about an independent, democratic, and united Germany, and to conclude a treaty of peace with such a Germany. That is still our policy, and will continue to be. Unfortunately, as all the world knows, the Soviet Union, while professing a desire for German unification, has by its actions and policies prevented unification and the creation of a free all-German Government with which a treaty of peace could be negotiated.

Under these circumstances, the United States, France, and Great Britain, 4 years ago, gave the people in Western Germany the chance to create their own democratic Government. They worked out their own constitution and, since September 1949, the Federal Republic of Germany has taken an increasing responsibility for governing the three-fourths of the German people who are free from Soviet control. During this time the German Government has demonstrated that it is democratic and responsive to the will of the free people of Germany, and that it is able and ready to take its place in the community of free nations and to do its share toward building peaceful and cooperative relationships with other free countries.

Over the last 3 years, there has been a continuing process of relaxing occupation controls on the one hand and increasing the scope of the German Federal Government's responsibilities on the other. Last October the United States and many other countries concerned ended the technical state of war which had existed with Germany. In these



ways, we have gradually been moving away from the original relationship of conqueror and conquered, and moving toward the relationship of equality which we expect to find among freemen everywhere.

Now we are taking another major step in this direction. By the convention on relations between the Federal Republic and the United States, France, and Great Britain, we are restoring to the free German people control over their domestic and external affairs, subject only to certain limited exceptions made necessary by the present international situation. These exceptions relate to the stationing and security of Allied forces in Germany, to Berlin, and to questions of unification, a peace settlement, and other matters concerning Germany as a whole. When the new convention goes into effect, the occupation statute will be repealed, the Allied High Commission will be abolished, and relations between the Federal Republic and other countries will be placed on the customary diplomatic basis.

But the convention on relations was not, and could not be, prepared as an isolated document, because it does not meet the full problem confronting the free people of Germany and those of other free countries. In order to provide for the security of the Federal Republic, and to ensure against any revival of militarism, arrangements were worked out under which the Federal Republic is joining in establishing the European Defense Community—the common defense organization of six continental European countries. As a member of this community, the Federal Republic will be able to make a vital contribution to the common defense of Western Europe without the creation of a national German military establishment. The European Defense Community, with a common budget and common procurement of military equipment, common uniforms, and common training, is a very remarkable advance, representing as it does a voluntary merging of national power into a common structure of defense.

As an additional vital safeguard for peace and freedom in Europe, the German Federal Republic, as a member of the European Defense Community, is joining in reciprocal commitments between the members of that community and the members of the North Atlantic Treaty organization. The protocol to the North Atlantic Treaty extends the application of the guaranty of mutual assistance expressed in article 5 of the treaty by providing that an attack on the territory of any member of the European Defense Community, including the German Federal Republic, or on the community's forces, shall be considered an attack against all the parties to the treaty. A reciprocal guaranty is extended to the North Atlantic Treaty partners by the members of the community in a protocol to the treaty constituting the European Defense Community.

Thus, these various documents constitute an integrated whole. The United States is a party only to the convention on relations (and the related conventions) and to the protocol to the North Atlantic Treaty, but the treaty constituting the European Defense Community is an essential factor in the new relationship which the conventions establish. It is expressly provided that the conventions with the Federal Republic, the treaty constituting the European Defense Community, and the protocol to the North Atlantic Treaty will come into force simultaneously, thus assuring the complete interrelationship of all of them. The participation of the Federal Republic in the European



Coal and Steel Community (the Schuman plan) and the European Defense Community, and the resultant transfer to European agencies of authority over the basic industries of the participating countries and over military activities are the strongest safeguards for the future security of Western Europe. The successful creation of these European institutions makes possible the removal of special restraints which have heretofore been imposed on the Federal Republic and thereby enables the latter to participate in Western defense on a basis of equality.

Thus, while not a party, the United States has a direct and abiding interest in the success and effectiveness of the treaty constituting the European Defense Community and in the continuing existence of this community as constituted. By virtue of the North Atlantic Treaty and the convention on Relations between the Three Powers and the Federal Republic of Germany, the United States has demonstrated its lasting interest and binding ties with the Atlantic and European communities of nations. By its adherence to the treaty constituting the European Defense Community and the convention on relations, the Federal Republic has linked its future with that of the community and of the participating countries. It is therefore evident that the United States has acquired a very great stake in the maintenance of the institutions and relationships thus established and would consider any act which would affect their integrity or existence as a matter of fundamental concern to its own interests and security. I stress this point in order to make clear the relationship between the conventions, the treaty constituting the European Defense Community, and the North Atlantic Treaty, and between the parties to these various agreements.

The documents I am transmitting to the Senate today are real and significant steps forward toward peace and security in Europe and the whole free world. These actions threaten no one; their only targets are fear and poverty. They will allow almost 50 million free German people to take a further great stride toward independence and self-government, and to join with their neighbors in self-defense. These moves are clearly in the direction of a just and lasting peace; only those with aggressive intent could have any objection to them.

The actions represented by these documents will not, of course, wipe out the basic conflicts of policies which underlie the current tense international situation. But they will, when ratified by the various countries concerned, bring about a fundamental change in the relationships between the free people of Germany and their friends in the free countries of the world. Under this new relationship we will all be able to work together more fully and more effectively to combine our strength not only to deter aggression, but also to bring about the economic and social progress, and the more harmonious and friendly international relations, to which all free men aspire.

I recommend that the Senate give early and favorable consideration to the convention on relations and to the protocol to the North Atlantic Treaty transmitted herewith, and give its advice and consent to their ratification in order that this great contribution to the strength and unity of the free world can become a reality.

HARRY S. TRUMAN.



DEPARTMENT OF STATE,  
*Washington, May 31, 1952.*

The PRESIDENT,  
*The White House:*

I have the honor to submit to you, with a view to the transmission thereof to the Senate for its advice and consent to ratification, the convention on relations between the Three Powers and the Federal Republic of Germany, signed at Bonn on May 26, 1952, to which is annexed the Charter of the Arbitration Tribunal. I further submit, also with a view to the transmission thereof to the Senate for its advice and consent to ratification, a protocol to the North Atlantic Treaty signed at Paris on May 27, 1952.

There are transmitted also three technical agreements, referred to as the "related conventions" and texts of letters exchanged in connection therewith. They were also signed at Bonn on May 26, 1952. These include the convention on the settlement of matters arising out of the war and the occupation, the convention on the rights and obligations of foreign forces and their members in the Federal Republic of Germany, and the finance convention. There are further transmitted the treaty constituting the European Defense Community, signed at Paris on May 27, 1952; a declaration made by the United States, the United Kingdom, and France at the time of the signing of the treaty constituting the European Defense Community; and finally the treaty constituting the European Coal and Steel Community, signed at Paris on April 18, 1951. It is recommended that these six documents be submitted to the Senate for its information.

Since the beginning of the occupation the United States, the United Kingdom, and France have worked toward the rehabilitation of Germany and the restoration of the country as a whole. The Soviet Union would not agree, however, to any terms for unifying Germany in conditions of freedom. The three Western Powers therefore approved the establishment, in the major part of Germany which was free from Soviet occupation, of a democratic government responsive to the will of the German people. This Government came into being with the creation of the Federal Republic of Germany on September 21, 1949. An important step toward the establishment of normal relations between the Federal Republic and the free western nations has recently been taken by the United States and some 35 other countries through termination of the state of war with Germany. On the part of the United States this was brought about in conformity with the joint resolution of Congress approved by the President on October 19, 1951 (Public Law 181, 82d Cong., 1st sess.). It has not been possible to conclude a treaty of peace because of the Soviet attitude referred to above which has made it impossible so far to bring about the unification of Germany and the establishment of an all-German government which would be an essential participant in the negotiations of a peace treaty. However, the effect of the conventions will be to advance as far as possible in the direction of normal relations with Germany by terminating the occupation of Western Germany and establishing the independence of the Federal Republic, subject only to certain powers which will continue to be held by the United States, the United Kingdom, and France as they have been since the end of the war. The reason for keeping these powers is to enable



the three Governments to deal with the issues arising from the continued division of Germany and the present state of international relations. The powers relate to the stationing and security of Allied forces in Germany (including the right to proclaim a state of emergency in certain extreme circumstances and to take action thereunder), to Berlin, and to Germany as a whole (including questions of unification and a peace settlement). The powers are to be held in reserve for special use, and are not intended for exercise in ordinary German affairs, either domestic or foreign. Accordingly, the occupation statute will be repealed, the Allied High Commission abolished, and relations between the Federal Republic and other countries placed on the customary diplomatic basis.

These and other broad provisions are in the convention on relations between the Three Powers and the Federal Republic of Germany. The related conventions deal with matters of a more technical nature. The convention on the settlement of matters arising out of the war and the occupation contains the necessary temporary provisions for bringing to a conclusion existing Allied programs in the Federal Republic; it commits the Germans to recognize rights and obligations already created by the acts of the three Allied Powers and the occupation authorities, and to recognize and protect foreign property interests. The convention on rights and obligations of the foreign forces makes provision for the personal status of the members of the Allied forces stationed in Germany (other than those of the European Defense Community) and their dependents, for their immunities and exemptions from German jurisdiction, and for the logistic requirements of the forces upon the German economy. The finance convention establishes the amount of the German financial contribution to the common defense. The major categories of costs to which the German financial contribution will be applied are (1) the Federal Republic's share of the costs of the European Defense Community, including the costs of raising German contingents and the costs of maintaining troops of the community in Germany, and (2) the costs of maintaining other troops (principally United States and British) in Germany. In addition, a relatively small portion of the contribution will be applied to miscellaneous costs classified as defense expenditures which will be paid through the German national and state budgets rather than through the budget of the European Defense Community.

For the settlement of disputes arising from these conventions which cannot be disposed of by diplomatic negotiation, or for which other means of settlement are not specifically provided in the conventions, an arbitration tribunal will be created in accordance with the charter annexed to the convention on relations. This body, on which there will be arbiters of American, British, French, German, and other nationality, will have the power to issue judgments binding upon the four Governments, but only within the territory of the Federal Republic. It may declare acts of those Governments to be null insofar as they apply in the Federal Republic, and it may also set aside judicial decisions applicable in the Federal territory, except those of Allied courts martial and other service tribunals.

The conventions do not constitute a final peace settlement, for they deal only with a portion of Germany, albeit the major portion. They do, however, constitute an attempt to dispose of as many of the out-



standing issues as can be settled in the present circumstances, and they are intended to constitute the basis of Allied-German relations until a peace settlement can be concluded. In the event of the unification of Germany, it is specified in the convention on relations that all the conventions will be binding upon the government of the unified country, but that any party may request their review and that they may be modified by agreement among the parties.

The convention on relations has to do with one aspect of the partnership between the Federal Republic and the free western nations; it creates for the Federal Republic a status enabling it to become a partner. An equally important aspect is the contribution which the Federal Republic is to make, in its capacity as a partner; this is expressed, partly in the finance convention, but primarily in the treaty constituting the European Defense Community.

This treaty, signed by France, the Federal Republic, Italy, the Netherlands, Belgium, and Luxemburg, is primarily designed to strengthen the common defense and safeguard the peace. Following close on the heels of the treaty constituting the European Coal and Steel Community, it represents another far-reaching step toward the consolidation of the free nations of Western Europe, including the German Federal Republic. It makes possible a German military contribution to the common defense without the creation of a national German military establishment. The member states agree to merge their armed forces under common supranational institutions and to place the European defense forces thus created at the disposal of the Supreme Allied Commander, Europe. In order to strengthen the community, the United States and British Governments assert in the enclosed tripartite declaration that if any action from whatever quarter threatens the integrity or unity of the community, the two Governments will regard this as a threat to their own security and they will act in accordance with article 4 of the North Atlantic Treaty. This declaration also clarifies the status of the various security guaranties which have been given by the three Governments. In addition it states specifically that they will maintain armed forces in Berlin as long as their responsibilities require it, and that they will treat any attack against Berlin (which is not included within the territory of the European Defense Community) from any quarter as an attack upon their forces and themselves.

It has been recognized by all concerned that the relationship between the European Defense Community and the North Atlantic Treaty Organization must be particularly close, since both institutions exist for the same purpose of defending the free world. Five members of the community are also parties to the North Atlantic Treaty and are therefore protected by the guaranty of mutual assistance expressed in article 5 of the treaty. The Federal Republic, however, is not a party to the North Atlantic Treaty, so it could claim no protection under this guaranty, even though its defense contribution is expected to surpass that of many other countries. Similarly, the forces of the community might also lack the protection of the guaranty in the event of an attack, since, being no longer national forces, they are not forces of a party to the treaty. In order to give the benefits of the guaranty to the Federal Republic and to the forces of the European Defense Community, the present protocol to the North Atlantic Treaty was devised.



The protocol has been signed for the United States and the other parties to the North Atlantic Treaty. It extends the application of the guaranty of mutual assistance expressed in article 5 of the treaty to the Federal Republic and to the forces of the community by providing specifically that an attack on the territory of any member of the community, or on the community's forces, shall be considered an attack against all the parties to the North Atlantic Treaty. A reciprocal guaranty, in similar terms, is extended to all the parties to the North Atlantic Treaty by the members of the community in a protocol to the treaty constituting the European Defense Community. This means that the United States, as a party to the North Atlantic Treaty, will receive a guaranty from the Federal Republic, as a member of the community.

In view of the great importance which the convention on relations between the Three Powers and the Federal Republic of Germany (including its annexed charter) and the protocol to the North Atlantic Treaty have for the maintenance of peace and security in Europe, it is hoped that they will be given early and favorable consideration by the Senate.

Respectfully submitted.

DEAN ACHESON.

(Enclosures: (1) Convention on relations between the Three Powers and the Federal Republic of Germany; (2) protocol to the North Atlantic Treaty; (3) convention on the settlement of matters arising out of the war and the occupation; (4) convention on the rights and obligations of foreign forces and their members in the Federal Republic of Germany (including agreement on tax treatment of the forces and their members); (5) finance convention; (6) texts of letters exchanged; (7) treaty constituting the European Defense Community; (8) declaration; (9) treaty constituting the European Coal and Steel Community.)

## CONVENTION ON RELATIONS BETWEEN THE THREE POWERS AND THE FEDERAL REPUBLIC OF GERMANY

THE United States of America,  
the United Kingdom of Great Britain and Northern Ireland  
and the French Republic,  
of the one part, and  
the Federal Republic of Germany,  
of the other part:

WHEREAS a peaceful and prosperous European Community of nations firmly bound to the other free nations of the world through dedication to the principles of the Charter of the United Nations can be attained only through united support and defence of the common freedom and the common heritage;

WHEREAS it is the common aim of the Signatory States to integrate the Federal Republic on a basis of equality within the European Community itself included in a developing Atlantic Community;

WHEREAS the achievement of a fully free and unified Germany through peaceful means and of a freely negotiated peace settlement, though prevented for the present by measures beyond their control, remains a fundamental and common goal of the Signatory States;

WHEREAS the retention of the Occupation Statute with its powers of intervention in the domestic affairs of the Federal Republic is inconsistent with the purpose of integrating the Federal Republic within the European Community;

WHEREAS the United States of America, the United Kingdom of Great Britain and Northern Ireland and the French Republic (hereinafter referred to as "the Three Powers") are therefore determined to retain only those special rights of which the retention is necessary, in the common interest of the Signatory States, having regard to the special international situation in Germany;

WHEREAS the Federal Republic has developed free and responsible political institutions and is determined to maintain the liberal-democratic federal constitution which guarantees human rights and is enshrined in its Basic Law;

WHEREAS the Three Powers and the Federal Republic recognize that both the new relationship to be established between them by the present Convention and its related Conventions and the Treaties for the creation of an integrated European community, in particular the Treaty on the Establishment of the European Community for Coal and Steel and the Treaty on the Establishment of the European Defence Community, are essential steps to the achievement of their common aim for a unified Germany integrated within the European Community;

HAVE entered into the following Convention setting forth the basis for their new relationship:



## ARTICLE 1

1. The Federal Republic shall have full authority over its internal and external affairs, except as provided in the present Convention.

2. The Three Powers will revoke the Occupation Statute and abolish the Allied High Commission and the Offices of the Land Commissioners upon the entry into force of the present Convention and the Conventions listed in Article 8 (hereinafter referred to as "the related Conventions").

3. The Three Powers will thenceforth conduct their relations with the Federal Republic through Ambassadors who will act jointly in matters the Three Powers consider of common concern under the present Convention and the related Conventions.

## ARTICLE 2

1. The Three Powers retain, in view of the international situation, the rights, heretofore exercised or held by them, relating to (a) the stationing of armed forces in Germany and the protection of their security, (b) Berlin, and (c) Germany as a whole, including the unification of Germany and a peace settlement.

2. The Federal Republic, on its part, will refrain from any action prejudicial to these rights and will cooperate with the Three Powers to facilitate their exercise.

## ARTICLE 3

1. The Federal Republic agrees to conduct its policy in accordance with the principles set forth in the Charter of the United Nations and with the aims defined in the Statute of the Council of Europe.

2. The Federal Republic affirms its intention to associate itself fully with the community of free nations through membership in international organizations contributing to the common aims of the free world. The Three Powers will support applications for such membership by the Federal Republic at appropriate times.

3. In their negotiations with States with which the Federal Republic maintains no relations, the Three Powers will consult with the Federal Republic in respect of matters directly involving its political interests.

4. At the request of the Federal Government, the Three Powers will arrange to represent the interests of the Federal Republic in relations with other States and in certain international organizations or conferences, whenever the Federal Republic is not in a position to do so itself.

## ARTICLE 4

1. The mission of the armed forces stationed by the Three Powers in the Federal territory will be the defence of the free world, of which the Federal Republic and Berlin form part.

2. The Three Powers will consult with the Federal Republic, insofar as the military situation permits, regarding the stationing of such armed forces in the Federal territory. The Federal Republic will cooperate fully, in accordance with the present Convention and



the related Conventions, in facilitating the tasks of such armed forces.

3. The Three Powers will obtain the consent of the Federal Republic before bringing into the Federal territory, as part of their forces, contingents of the armed forces of any nation not now providing such contingents. Such contingents may nevertheless be brought into the Federal territory without the consent of the Federal Republic in the event of external attack or imminent threat of such attack but, after the elimination of the danger, may only remain there with its consent.

4. The Federal Republic will participate in the European Defence Community in order to contribute to the common defence of the free world.

#### ARTICLE 5

1. In the exercise of their right to protect the security of the armed forces stationed in the Federal territory, the Three Powers will conform to the provisions of the following paragraphs of this Article.

2. In case the Federal Republic and the European Defence Community are unable to deal with a situation which is created by

an attack on the Federal Republic or Berlin,  
subversion of the liberal democratic basic order,  
a serious disturbance of public order or  
a grave threat of any of these events,

and which in the opinion of the Three Powers endangers the security of their forces, the Three Powers may, after consultation to the fullest extent possible with the Federal Government, proclaim a state of emergency in the whole or any part of the Federal Republic.

3. Upon the proclamation of a state of emergency, the Three Powers may take such measures as are necessary to maintain or restore order and to ensure the security of the Forces.

4. The proclamation will specify the area to which it applies. The state of emergency will not be maintained any longer than necessary to deal with the emergency.

5. The Three Powers shall consult the Federal Government to the fullest extent possible while the state of emergency continues. They will utilize to the greatest possible extent the assistance of the Federal Government and the competent German authorities.

6. If the Three Powers do not terminate a state of emergency within thirty days after a request by the Federal Government to do so, the Federal Government may submit a request to the Council of the North Atlantic Treaty Organization to examine the situation and consider whether the state of emergency should be terminated. If the Council concludes that continuance of the state of emergency is no longer justified, the Three Powers will restore the normal situation as promptly as possible.

7. Independently of a state of emergency, any military commander may, if his forces are imminently menaced, take such immediate action appropriate for their protection (including the use of armed force) as is requisite to remove the danger.

8. In all other respects, the protection of the security of these forces is governed by the provisions of the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany referred to in Article 8 of the present Convention.



## ARTICLE 6

1. The Three Powers will consult with the Federal Republic in regard to the exercise of their rights relating to Berlin.

2. The Federal Republic, on its part, will cooperate with the Three Powers in order to facilitate the discharge of their responsibilities with regard to Berlin. The Federal Republic will continue its aid to the political, cultural, economic and financial reconstruction of Berlin and, in particular, will grant it such aid as is set out in the annexed Declaration of the Federal Republic (Annex A to the present Convention).

## ARTICLE 7

1. The Three Powers and the Federal Republic are agreed that an essential aim of their common policy is a peace settlement of the whole of Germany, freely negotiated between Germany and her former enemies, which should lay the foundation for a lasting peace. They further agree that the final termination of the boundaries of Germany must await such a settlement.

2. Pending the peace settlement, the Three Powers and the Federal Republic will cooperate to achieve, by peaceful means, their common aim of a unified Germany enjoying a liberal-democratic constitution, like that of the Federal Republic, and integrated within the European Community.

3. In the event of the unification of Germany the Three Powers will, subject to such adjustments as may be agreed, extend to a unified Germany the rights which the Federal Republic has under the present Convention and the related Conventions and will for their part agree that the rights under the Treaties for the formation of an integrated European community should be similarly extended, upon the assumption by such a unified Germany of the obligations of the Federal Republic toward the Three Powers or to any of them under those Conventions and Treaties. Except by common consent of all the Signatory States the Federal Republic will not conclude any agreement or enter into any arrangement which would impair the rights of the Three Powers under those Conventions and Treaties or lessen the obligations of the Federal Republic thereunder.

4. The Three Powers will consult with the Federal Republic on all other matters involving the exercise of their rights relating to Germany as a whole.

## ARTICLE 8

1. The Three Powers and the Federal Republic have concluded the following related Conventions which will enter into force simultaneously with the present Convention:

Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany;

Finance Convention;

Convention on the Settlement of Matters Arising out of the War and the Occupation.

2. During the transitional period provided for in paragraph 4 of Article 6 of Chapter One of the Convention on the Settlement of Matters Arising out of the War and the Occupation, the rights of



the Three Powers referred to in that paragraph shall be deemed to be included within the exception set forth in paragraph 1 of Article 1 of the present Convention.

#### ARTICLE 9

1. There is hereby established an Arbitration Tribunal which shall function in accordance with the provisions of the annexed Charter (Annex B to the present Convention).

2. The Arbitration Tribunal shall have exclusive jurisdiction over all disputes arising between the Three Powers and the Federal Republic under the provisions of the present Convention or the annexed Charter or any of the related Conventions which the parties are not able to settle by negotiation, except as otherwise provided by paragraph 3 of this Article or in the annexed Charter or in the related Conventions.

3. Any dispute involving the rights of the Three Powers referred to in Article 2, or action taken thereunder, or involving the provisions of paragraphs 1 to 7 inclusive of Article 5, shall not be subject to the jurisdiction of the Arbitration Tribunal or of any other tribunal or court.

#### ARTICLE 10

The Three Powers and the Federal Republic will review the terms of the present Convention and the related Conventions

(a) upon the request of any one of them, in the event of the unification of Germany or the creation of a European federation; or

(b) upon the occurrence of any other event which all of the Signatory States recognize to be of a similarly fundamental character.

Thereupon, they will, by mutual agreement, modify the present Convention and related Conventions to the extent made necessary or advisable by the fundamental change in the situation.

#### ARTICLE 11

1. The present Convention and the related Conventions shall be ratified or approved by the Signatory States in accordance with their respective constitutional procedures. The instruments of ratification shall be deposited by the Signatory States with the Government of the Federal Republic of Germany.

2. The present Convention shall enter into force immediately upon

(a) the deposit by all the Signatory States of instruments of ratification of the present Convention and of all the Conventions listed in Article 8; and

(b) the entry into force of the Treaty on the Establishment of the European Defence Community.

3. The present Convention and the related Conventions shall be deposited in the Archives of the Government of the Federal Republic of Germany, which will furnish each Signatory State with certified copies thereof and notify each such State of the date of the entry into force of present Convention and the related Conventions.



IN FAITH WHEREOF the undersigned representatives duly authorized thereto by their respective Governments have signed the present Convention.

Done at Bonn this twenty-sixth day of May, 1952 in three texts, in the English, French and German languages, all being equally authentic.

For the United States of  
America:

s/ DEAN ACHESON

For the United Kingdom of Great  
Britain and Northern Ireland:

s/ ANTHONY EDEN

For the French Republic:

s/ ROBERT SCHUMAN

For the Federal Republic of  
Germany:

s/ ADENAUER

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## ANNEX A TO THE CONVENTION ON RELATIONS BETWEEN THE THREE POWERS AND THE FEDERAL REPUBLIC OF GERMANY

### DECLARATION OF THE FEDERAL REPUBLIC ON AID TO BERLIN

(Agreed Translation)

In view of the special role which Berlin has played and is destined to play in the future for the self-preservation of the free world, aware of the ties connecting the Federal Republic with Berlin, and motivated by the desire to strengthen and to reinforce the position of Berlin in all fields, and in particular to bring about insofar as possible an improvement in the economy and the financial situation in Berlin including its productive capacity and level of employment, the Federal Republic undertakes

(a) to take all necessary measures on its part in order to ensure the maintenance of a balanced budget in Berlin through appropriate assistance;

(b) to take adequate measures for the equitable treatment of Berlin in the control and allocation of materials in short supply;

(c) to take adequate measures for the inclusion of Berlin in assistance received by the Federal Republic from outside sources in reasonable proportion to the unutilized industrial resources existing in Berlin;

(d) to promote the development of Berlin's external trade, to accord Berlin such favoured treatment in all matters of trade policy as circumstances warrant and to provide Berlin within the limit of possibility and in consideration of the participation of Berlin in the foreign currency control by the Federal Republic, with the necessary foreign currency;

(e) to take all necessary measures on its part to ensure that the city remain in the currency area of the Deutsche Mark West, and that an adequate money supply is maintained in the city;



(f) to assist in the maintaining in Berlin of adequate stock-piles of supplies for emergencies;

(g) to use its best efforts for the maintenance and improvement of trade and of communications and transportation facilities between Berlin and the Federal territory, and to cooperate in accordance with the means at its disposal in their protection or their reestablishment;

(h) to facilitate the inclusion of Berlin in the international agreements concluded by the Federal Republic, provided that this is not precluded by the nature of the agreements concerned.

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## ANNEX B TO THE CONVENTION ON RELATIONS BETWEEN THE THREE POWERS AND THE FEDERAL REPUBLIC OF GERMANY

### *CHARTER OF THE ARBITRATION TRIBUNAL*

#### PART I—COMPOSITION, ORGANISATION AND SEAT OF THE TRIBUNAL

##### ARTICLE I

1. The Tribunal shall be composed of nine members who shall have the qualifications required in their respective countries for appointment to the highest judicial offices or shall be lawyers of recognized competence in international law.

2. The nine members of the Tribunal shall be appointed as follows:

(a) Three members, appointed by the Governments of the Three Powers, one by each Government;

(b) Three members appointed by the Federal Government;

(c) Three members (hereinafter referred to as “the neutral members”) appointed by agreement between the Governments of the Three Powers and the Federal Government, none of whom shall be a national of any one of the Three Powers or a German national.

3. The Governments of the Three Powers and the Federal Government shall make known their first appointments not later than sixty days after the entry into force of the present Charter. Within the same period the Governments of the Three Powers and the Federal Government shall agree upon the three neutral members. If, after the expiry of such period, one or more of the neutral members shall not have been appointed, either the Governments of the Three Powers or the Federal Government may request the President of the International Court of Justice to appoint such neutral member or members.

4. Appointments to fill vacancies shall be made in the same manner as the appointment of the member to be replaced. However, if a vacancy to be filled by the Government of one of the Three Powers or the Federal Government is not so filled within one month of its occurring, either the Governments of the Three Powers or the Federal Government may request the President of the International Court of Justice to make an interim appointment to the vacancy of a person who shall not be a national of any one of the Three Powers or a



German national and who shall serve for a period of six months or until the vacancy is filled in the normal manner, whichever is longer. If the member to be replaced is a neutral member, the Governments of the Three Powers or the Federal Government may request the President of the International Court of Justice to make such appointment, if the agreement envisaged by sub-paragraph (c) of paragraph 2 of this Article has not been reached within one month of the vacancy occurring.

5. The Tribunal may, by majority vote, declare a vacancy if, in its opinion, a member has, without reasonable excuse, failed or refused to participate in the hearing or decision of a case to which he has been assigned.

#### ARTICLE 2

1. The members of the Tribunal shall be appointed for four years. They may be reappointed after the expiration of their terms of office.

2. A member whose term of office has expired shall nevertheless continue to discharge his duties until his successor is appointed. After such appointment he shall, unless the President of the Tribunal directs otherwise, continue to discharge his duties respecting pending cases in which he has participated until such cases have been finally decided.

3. Members of the Tribunal shall not engage in any activity incompatible with the proper exercise of their duties, nor shall they participate in the adjudication of any case with which they have previously been concerned in another capacity or in which they have a direct interest. Differences of opinion regarding the applicability of this paragraph shall be resolved by the Tribunal.

4. (a) During and after their term of office, the members of the Tribunal shall enjoy immunity from suit in respect of acts performed in the exercise of their official duties.

(b) The members of the Tribunal who are not of German nationality shall, moreover, enjoy in the Federal territory the same privileges and immunities as are accorded chiefs of diplomatic missions. If sittings or official acts take place in the territory of one of the Three Powers, the members of the Tribunal who are not of the nationality of the country in which the sitting or act takes place shall enjoy diplomatic privileges and immunities in such country.

5. Every member of the Tribunal shall, before taking office, make a declaration at a public session that he will exercise his duties impartially and conscientiously.

6. Subject to the provisions of paragraph 5 of Article 1 of the present Charter, no member may be dismissed before the expiry of his term of office, or before the termination of his duties in accordance with paragraph 2 of this Article, except by agreement between the Governments of the Three Powers and the Federal Government; or, in the case of a member appointed by the President of the International Court of Justice, by agreement between the Governments of the Three Powers and the Federal Government, with the consent of the President of the International Court of Justice.

#### ARTICLE 3

The Tribunal shall elect from the neutral members a President and two Vice-Presidents to serve as such for two years.



## ARTICLE 4

1. The Tribunal, presided over by the President or one of the Vice-Presidents, shall sit either in plenary session or in Chambers of three members.

2. A plenary session shall, in principle, include all the members of the Tribunal. A quorum of five members shall suffice to constitute a plenary session; it shall be composed of an uneven number of members and in any case shall consist of an equal number of the members appointed by the Governments of the Three Powers and of those appointed by the Federal Government, and at least one neutral member.

3. Chambers shall be composed of one of the members appointed by the Governments of the Three Powers, one of the members appointed by the Federal Government and one neutral member.

4. The Tribunal in plenary session shall nominate the members of such Chambers, define the categories of cases with which a Chamber will be concerned or assign a particular case to a Chamber.

5. Any decision of a Chamber, on a case assigned to it, shall be deemed to be a decision of the Tribunal.

6. The final decision on a case assigned to a Chamber must be taken by the Tribunal in plenary session, if one of the parties so requests before the Chamber itself has pronounced a final decision.

## ARTICLE 5

The Tribunal shall sit in public unless it decides otherwise. The deliberations of the Tribunal shall be and shall remain secret as shall all facts brought to its attention in closed session.

## ARTICLE 6

1. A Registrar shall be responsible for the administration of the Tribunal; he shall have the necessary staff at his disposal. The Registrar shall handle the transmission of documents, keep a record of petitions submitted to the Tribunal and be responsible for the archives and accounts of the Tribunal.

2. The first Registrar shall be appointed by agreement between the Three Powers and the Federal Republic. The Registrar shall be a permanent official subject to dismissal and replacement only by the Tribunal.

## ARTICLE 7

The seat of the Tribunal shall be located within the Federal territory at such place as shall be determined by a subsidiary administrative agreement between the Governments of the Three Powers and the Federal Government. The Tribunal may, however, sit and exercise its functions elsewhere, when it deems it desirable to do so.

## ARTICLE 8

Questions pertaining to the operating costs of the Tribunal, including the official emoluments of members, as well as arrangements for securing the inviolability of the premises of the Tribunal, shall be regulated by the subsidiary administrative agreement referred to in Article 7 of the present Charter.



## PART II—COMPETENCE AND POWERS OF THE TRIBUNAL

## ARTICLE 9

1. The Tribunal shall have jurisdiction over all disputes arising between the Three Powers and the Federal Republic under the provisions of the Convention on Relations between the Three Powers and the Federal Republic of Germany (hereinafter referred to as "the Convention") or the present Charter or any of the related Conventions listed in Article 8 of the Convention, which the parties are not able to settle by negotiation, except disputes expressly excluded from its jurisdiction by the provisions of the Convention or the present Charter or any of the related Conventions.

2. (a) The Tribunal shall, moreover, have jurisdiction in respect of any question as to the extent of the competence of the following authorities:

The Board of Review referred to in Chapter Two of the Convention on the Settlement of Matters Arising out of the War and the Occupation;

The Supreme Restitution Court referred to in Chapter Three of that Convention;

The Arbitral Commission on Property, Rights and Interests in Germany referred to in Chapters Five and Ten of that Convention.

(b) A question as to the extent of the competence of these authorities may be raised at any time after the institution of proceedings before them and also after a final decision.

(c) The decisions of the Tribunal on these questions shall be binding on the authorities whose competence has been questioned.

3. The decisions of the authorities specified in subparagraph (a) of paragraph 2 of this Article shall be subject to the jurisdiction of the Tribunal and to the provisions of subparagraph (a) of paragraph 5 of Article 11 of the present Charter only to the extent contemplated in subparagraph (a) of paragraph 2 of this Article, unless the contrary is expressly provided in one of the related Conventions.

4. Decisions of the authorities provided for or referred to in the related Conventions, other than those specified in subparagraph (a) of paragraph 2 of this Article, shall be subject to review by the Tribunal, whether on questions as to the extent of competence or on the merits, only to the extent contemplated by paragraph 1 of this Article, unless the contrary is expressly provided in one of the related Conventions.

5. Only the Governments of one or more of the Three Powers, on the one hand, and the Federal Government, on the other, may be parties before the Tribunal. If the Federal Government brings a complaint against one or two of the Governments of the Three Powers, or if one or two of the Governments of the Three Powers brings a complaint against the Federal Government, the other Government or Governments of the Three Powers may apply to the Tribunal to be joined as parties.

## ARTICLE 10

The Tribunal shall render its decisions in the form of judgments or directives which shall be binding on the parties.



## ARTICLE 11

1. Signatory States undertake to comply with the decisions of the Tribunal and to take the action required of them by such decisions.

2. The Tribunal may set a period of time for the execution of its decisions.

3. If a judgment of the Tribunal establishes that the provisions of a law or ordinance, applicable in the Federal territory, are in conflict with the provisions of the Convention or the present Charter or the related Conventions, it may order the party which has enacted such provisions to deprive them of effect, in whole or in part, in the Federal territory. Should this party fail to comply with the judgment of the Tribunal, the Tribunal may, at the request of the successful party, declare the provisions null, in whole or in part, in the Federal territory, with binding effect.

4. If a judgment of the Tribunal establishes that an administrative measure applicable in the Federal territory, is in conflict with the provisions of the Convention or the present Charter or the related Conventions, it may order the party which has taken such measure to annul it, in whole or in part, in the Federal territory. Should this party fail to comply with the judgment of the Tribunal, the Tribunal may, at the request of the successful party, declare the measure null, in whole or in part, in the Federal territory, with binding effect.

5. (a) If a judgment of the Tribunal establishes that a judicial decision, enforceable in the Federal territory, is in conflict with the basic principles of the Convention or the present Charter or the related Conventions it may annul such decision, in whole or in part, in the Federal territory. In such case the judicial proceedings shall be restored to the position in which they were before the judicial decision was given; in further proceedings the Tribunal's findings of fact and law shall be binding in the Federal territory.

(b) The provisions of sub-paragraph (a) of this paragraph shall not apply to decisions of Service Tribunals.

6. If a judgment of the Tribunal establishes that a party has failed to take action which it is obliged to take by the Convention or the present Charter or the related Conventions, the Tribunal may, in its judgment or, on the application of a party, in a second judgment, specify special measures which must be taken by the unsuccessful party in order to remedy the situation in compliance with the judgment. Should this party fail to take such special measures within the time specified by the Tribunal, the Tribunal may, on the application of the other party, authorize the latter to take appropriate measures to remedy the situation in compliance with the judgment. If, however, the measures which the unsuccessful party fails to take consist in the issue of legal provisions, the Tribunal may embody in its judgment provisions, not inconsistent with the Basic Law of the Federal Republic, creating rights and obligations for all persons and authorities in the Federal territory.

## ARTICLE 12

1. The Tribunal or, in a case of urgency, the President shall have the power, by the issue of directives, to take such measures as may



be necessary to conserve the respective rights of the parties pending the judgment of the Tribunal. Any directive issued by the President under this Article may be confirmed, amended or annulled by the Tribunal within seventy-two hours after the notification thereof to the parties.

2. The parties shall be afforded an opportunity to be heard prior to the issue of any directive by the Tribunal or by the President under this Article.

3. In the absence of the President, his powers under this Article shall be exercised by one of the Vice-Presidents to be designated by the President for this purpose.

### PART III—PROCEEDINGS

#### ARTICLE 13

The official languages of the Tribunal shall be French, English and German.

#### ARTICLE 14

Proceedings before the Tribunal shall be instituted by a written petition filed with the Tribunal which shall contain a statement of the facts giving rise to the dispute, reference to the provisions of the Convention or the present Charter or the related Conventions which are invoked, legal argument, and conclusion.

#### ARTICLE 15

1. The parties shall be represented by agents. They may be assisted by counsel.

2. Such agents and counsel shall enjoy immunity from suit in respect of acts performed in the exercise of their duties.

#### ARTICLE 16

1. The presiding member may summon the agents in order to be informed of their wishes concerning the time limits and conduct of the proceedings.

2. The presiding member shall set the time limits for the submission of pleadings and shall prescribe all the measures necessary for the conduct of the proceedings.

3. Certified copies of all documents submitted by either party shall be immediately forwarded to the other party through the Registrar.

#### ARTICLE 17

The proceedings shall consist of two parts: written and oral. Oral proceedings may be dispensed with if both parties so request.

#### ARTICLE 18

1. Written proceedings shall consist of a statement of the complainant's case, the defendant's answer and, unless the Tribunal directs otherwise, a reply and a rejoinder.

2. Counterclaims shall be permissible.



## ARTICLE 19

1. Oral proceedings shall consist of the complainant's argument, the defendant's argument and, unless the Tribunal directs otherwise, a reply and a rejoinder, as well as hearings of witnesses and experts.

2. The Tribunal shall have power to demand the production of evidence, documentary or other, to require the attendance of witnesses to testify, to request expert opinion, and to direct inquiries to be made.

3. In the event that a party does not produce evidence which in the opinion of the Tribunal is relevant to the issues before it and which such party possesses or is in a position to procure, the Tribunal shall proceed to give its decision notwithstanding the absence of such evidence.

4. The presiding member or any other member of the Tribunal may put questions to the parties, witnesses and experts.

5. A written record of the oral proceedings shall be kept and shall be signed by the presiding member and the Registrar.

## ARTICLE 20

All decisions of the Tribunal shall be based on the Convention, the present Charter and the related Conventions. The Tribunal shall, in the interpretation of such Conventions, apply the generally accepted rules of international law governing the interpretation of treaties.

## ARTICLE 21

1. The Tribunal shall decide by majority vote.

2. Judgments shall state the reasons on which they are based.

3. Judgments shall be signed by the presiding member and by the Registrar.

4. Judgments shall be final and not subject to appeal.

5. In the case of a difference of opinion as to the meaning or scope of a judgment, the Tribunal may construe it by an interpretative judgment, on the application of either party and after having heard both parties.

## ARTICLE 22

The revision of a judgment may not be requested of the Tribunal except upon the grounds of the discovery of a fact which is of such a nature as to exercise a decisive influence, and of which the Tribunal and the party requesting revision had been unaware before the pronouncement of the judgment always provided that such ignorance was not due to negligence on the part of the party requesting the revision.

## ARTICLE 23

1. Unless the Tribunal directs otherwise, each party to proceedings before the Tribunal shall pay its own costs.

2. The Tribunal shall bear the costs in respect of witnesses whose attendance it has required and expert opinions and inquiries which it has ordered.

## ARTICLE 24

The Tribunal shall determine its own rules of procedure consistent with the present Charter.

## PART IV—ADVISORY OPINIONS

## ARTICLE 25

1. The Tribunal may, at the joint request of the Governments of the Three Powers and of the Federal Government give an advisory opinion on any matter arising out of the Convention or the present Charter or the related Conventions, with the exception of those questions with which it would not have been competent to deal if they had been referred to it in the form of a dispute.

2. The Tribunal may, at the request of an authority referred to in paragraph 2 of Article 9 of the present Charter or at the request of the presiding member of such an authority, give an advisory opinion on the competence of such authority.

3. Advisory opinions shall not be binding.



## PROTOCOL TO THE NORTH ATLANTIC TREATY ON GUARANTEES GIVEN BY THE PARTIES TO THE NORTH ATLANTIC TREATY TO THE MEMBERS OF THE EURO- PEAN DEFENCE COMMUNITY

The Parties to the North Atlantic Treaty, signed at Washington on 4th April 1949,

Being satisfied that the creation of the European Defence Community set up under the Treaty signed at Paris on 27th May 1952 will strengthen the North Atlantic Community and the integrated defence of the North Atlantic area, and promote the closer association of the countries of Western Europe, and

Considering that the Parties to the Treaty setting up the European Defence Community have signed a Protocol, which will enter into force at the same time as the present Protocol, giving to the Parties to the North Atlantic Treaty guarantees equivalent to the guarantees contained in Article 5 of the North Atlantic Treaty;

Agree as follows:

### ARTICLE I

An armed attack

(i) on the territory of any of the members of the European Defence Community in Europe or in the area described in Article 6 (i) of the North Atlantic Treaty or

(ii) on the forces, vessels or aircraft of the European Defence Community when in the area described in Article 6 (ii) of the said Treaty,

shall be considered an attack against all the Parties to the North Atlantic Treaty, within the meaning of Article 5 of the said Treaty, and Article 5 shall apply accordingly.

The expression "member of the European Defence Community" in paragraph (i) of this Article means any of the following States which is a member of the Community, namely, Belgium, France, the German Federal Republic, Italy, Luxembourg, and the Netherlands.

### ARTICLE II

The present Protocol shall enter into force as soon as each of the Parties has notified the Government of the United States of America of its acceptance and the Council of the European Defence Community has notified the North Atlantic Council of the entry into force of the Treaty setting up the European Defence Community. The Government of the United States of America shall inform all the Parties to the North Atlantic Treaty of the date of the receipt of each such notification and of the date of the entry into force of the present Protocol.

## ARTICLE III

The present Protocol shall remain in force for so long as the North Atlantic Treaty and the Treaty setting up the European Defence Community remain in force and the Parties to the latter Treaty continue to give, in respect of themselves and the European Defence forces, guarantees to the Parties to the North Atlantic Treaty equivalent to the guarantees contained in the present Protocol.

## ARTICLE IV

The present Protocol, of which the English and French texts are equally authentic, shall be deposited in the Archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of all the Parties to the North Atlantic Treaty and of all the Parties to the Treaty setting up the European Defence Community.

In witness whereof, the undersigned plenipotentiaries have signed the present protocol.

DONE at Paris, the 27th day of May 1952.

PAUL VAN ZEELAND  
A. D. P. HEENEY  
STEESEN-LETH  
SCHUMAN  
PAN. PIPINELIS  
GUNNLAUGUR PETURSSON  
DE GASPERI  
BECH  
STIKKER  
ARNE SKAUG  
TOVAR  
M. A. TINEY  
ANTHONY EDEN  
DEAN ACHESON



# CONVENTION ON THE SETTLEMENT OF MATTERS ARISING OUT OF THE WAR AND THE OCCUPATION

## *Corrigendum to Convention on Settlement of Matters Arising Out of the War and the Occupation*

In the fourth line of Chapter Ten "Foreign Interests in Germany", page 3, the word "external" should be added between "German" and "debts".

The UNITED STATES OF AMERICA, the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND and the FRENCH REPUBLIC (hereinafter referred to as "the Three Powers"), of the one part, and the FEDERAL REPUBLIC OF GERMANY, of the other part, AGREE AS FOLLOWS:

### CHAPTER ONE—GENERAL PROVISIONS

#### ARTICLE 1

1. The Federal and Land authorities shall have the power, in accordance with their respective competences under the Basic Law of the Federal Republic, to repeal or amend legislation enacted by the Occupation Authorities, except as otherwise provided in the Convention on Relations between the Three Powers and the Federal Republic of Germany or any of the related Conventions listed in Article 8 thereof. Until such repeal or amendment, legislation enacted by the Occupation Authorities shall remain in force. Legislation enacted by the Control Council shall not be subject to repeal or amendment. Legislation by which the provisional boundaries of the Federal Republic have been established, or which is required to be maintained in force by other provisions of the Convention on Relations between the Three Powers and the Federal Republic of Germany or any of the related Conventions, may only be amended or repealed with the consent of the Three Powers.

2. The Three Powers hereby delegate to the Federal Republic the right to deprive of effect within its territory, after consultation in each case with the Three Powers, all such legislation of the Control Council as is not required to be maintained in force by other provisions of the Convention on Relations between the Three Powers and the Federal Republic of Germany or any of the related Conventions or as shall not have been required to be maintained in force by the Three Powers in the exercise of their rights relating to Berlin and to Germany as a whole, including unification of Germany and a peace settlement, referred to in the Convention on Relations between the Three Powers and the Federal Republic of Germany, as listed in a communication on behalf of the Governments of the Three Powers to the Federal Chancellor bearing the date of the signature of the present Convention.



3. The term "legislation" as used in the present Convention includes proclamations, laws, ordinances, decisions (other than Court decisions), directives, regulations, orders, licenses or any other similar enactments which have been officially published. Reference to any specific legislation shall include each and every part thereof including the preamble, unless otherwise expressly provided.

4. The official text or texts of legislation referred to in this Article shall be the text or texts which was or were official at the time of enactment.

5. The term "Occupation Authorities" as used in this Chapter means the Control Council, the Allied High Commission, the High Commissioners of the Three Powers, the Military Governors of the Three Powers, the Armed Forces of the Three Powers in Germany, and organizations and persons exercising power on their behalf or, in the case of international organizations and organizations representing other Powers (and the members of such organizations), acting with their authorization, and auxiliary contingents of other Powers serving with the Armed Forces of the Three Powers.

#### ARTICLE 2

1. All rights and obligations created or established by or under legislative, administrative or judicial action of the Occupation Authorities are and shall remain valid for all purposes under German law whether or not their creation or establishment was in conformity with other legislation. Such rights and obligations shall be subject without discrimination to the same future legislative, judicial and administrative measures as similar rights and obligations created or established by or under German municipal law.

2. All rights and obligations arising under the treaties and the international agreements listed in the enclosure with the communication of the Allied High Commissioners on behalf of the Governments of the Three Powers to the Federal Chancellor bearing the date of the signature of the present Convention and concluded on behalf of one or more of the three Western Zones of Occupation by the Occupation Authorities or by any one or more of the Governments of the Three Powers before the entry into force of the present Convention are and shall remain valid as though they had arisen under effective treaties and international agreements concluded by the Federal Republic.

#### ARTICLE 3

1. No person shall be prosecuted or prejudiced in his civil rights or economic position by the action of German courts or authorities solely on the ground that he has, prior to the entry into force of the present Convention sympathized with or aided the cause of the Three Powers or their policies or interests, or furnished information or services to the forces, authorities, or agencies of any one or more of the Three Powers, or to any person acting under the authority of any of them. The same shall apply in favour of persons who, prior to the into force of the present Convention, have shown sympathy to, or aided or furnished with information or services, the Allies of the Three Powers in their common cause. The German authorities shall apply all means



at their disposal to ensure that the objectives of this paragraph are attained.

2. Except as provided in paragraph 3 of this Article, or by special agreement between the Governments of the Three Powers or the Power concerned and the Federal Government, German courts and authorities shall have no jurisdiction in any criminal or non-criminal proceedings relating to an act or omission which occurred before the date of entry into force of the present Convention, if immediately prior to such date German courts and authorities were without jurisdiction with respect to such act or omission whether *ratione materiae* or *ratione personae*.

3. Subject to the provisions of paragraph 1 of this Article and to any other relevant provision of the Convention on Relations between the Three Powers and the Federal Republic of Germany, or of the related Conventions, German courts may exercise such jurisdiction as they have under German law in respect of:

(a) Non-Criminal proceedings based on private law:

(i) against juristic persons, if the jurisdiction of German courts was previously excluded solely on the ground that such juristic persons were subject to the control of the Occupation Authorities under SHAEF and Military Government Laws No. 52 on Blocking and Control of Property, Control Council Law No. 9 Providing for the Seizure of Property Owned by I. G. Farbenindustrie and the Control thereof, or Allied High Commission Law No. 35 on Dispersion of Assets of I. G. Farbenindustrie A. G.;

(ii) against natural persons, unless such proceedings arise out of, or concern acts or omissions in the course of the performance of, duties or services for the Occupation Authorities, or unless they arise from claims referred to in Article 3 of Chapter Nine of the present Convention. Maintenance cases shall become subject to the jurisdiction of German courts, however, only to the extent to which maintenance is claimed in respect of a period commencing after the entry into force of the present Convention;

(b) Criminal proceedings against natural persons, unless investigation of the alleged offence was finally completed by the prosecuting authorities of the Power or Powers concerned, or unless such offence has been committed in the performance of duties or services for the Occupation Authorities.

Whenever in any criminal or non-criminal proceedings referred to in this paragraph a question arises whether or not a person has acted in the performance of duties or services for the Occupation Authorities, or whether or not the prosecuting authorities of the Power or Powers concerned have finally completed the investigation of an alleged offence, the German court shall accept a certificate of the Ambassador, or in his absence the chargé d'affaires, of the Power concerned as conclusive proof of such question, to the extent covered by such certificate.

#### ARTICLE 4

1. No tribunals shall be maintained by the Three Powers in the Federal territory except as specifically provided in the present Con-



vention or except tribunals exercising jurisdiction as contemplated in the Convention on Relations between the Three Powers and the Federal Republic of Germany or any of the related Conventions.

2. For the transitional period referred to in paragraph 3 of this Article, the United States Court and Court of Appeals of the Allied High Commission for Germany, established by Law No. 20 of the United States High Commissioner, the Courts of the Allied High Commission for Germany, British Zone, established by Military Government Ordinance No. 68 (amended 2) and Ordinances No. 222 and 224 of the United Kingdom High Commissioner, and the French Tribunals of the Allied High Commission for Germany, regulated by Ordinance No. 242 of the French High Commissioner, may continue to exercise jurisdiction under legislation of the Allied High Commission and of the High Commissioners to the extent necessary:

(a) to conclude any business before them on the entry into force of the present Convention;

(b) to make a decision in any criminal or non-criminal proceedings, other than criminal proceedings against a German national (within the meaning of German law), based on an act or omission which occurred before the date of entry into force of the present Convention and which was not immediately prior to that date subject to the jurisdiction of the German courts, if such proceedings are instituted within ninety days after the entry into force of the present Convention;

and shall continue to apply the applicable law in force immediately prior to the entry into force of the present Convention. The Federal Republic undertakes that at the request of any one of the Three Powers investigations will be made by the appropriate German authorities regarding alleged violations by German nationals (within the meaning of German law) of legislation of the Occupation Authorities, and that criminal proceedings will be instituted where the investigations show such proceedings to be warranted.

3. The jurisdiction referred to in paragraph 2 of this Article shall, however, terminate ten months after the date of entry into force of the present Convention in the case of appellate tribunals, and six months after that date in the case of other tribunals, except that such tribunals may complete proceedings pending on such termination dates where this appears advisable in view of the status of the proceedings and of the interests of the persons concerned. With a view to completing all matters falling within their jurisdiction, insofar as possible, within the prescribed periods, the courts referred to in paragraph 2 of this Article may transfer any proceedings pending before them to competent German courts whenever the status of the proceedings and the interests of the persons concerned shall permit. In particular, the tribunals shall consider the possibility of such transfer in all criminal proceedings pending on the entry into force of the present Convention in which a German national (within the meaning of German law) is a defendant. The German court to which such transfer is made shall apply the applicable substantive law referred to in paragraph 2 of this Article.

4. The legislation referred to in paragraph 2 of this Article shall be maintained in force for such period as is necessary to effect the purposes of that paragraph.



## ARTICLE 5

1. All judgements and decisions in non-criminal matters heretofore or hereafter rendered in Germany by any tribunal or judicial authority of the Three Powers or any of them shall remain final and valid for all purposes under German law, shall be treated as such by German courts authorities and shall, on the application of a party, be enforced by them in the same manner as judgments and decisions of German courts and authorities.

2. Finality (*Rechtskraft*) shall, if it does not appear from a certified copy of the judgment, be conclusively proved by a certificate of the appropriate authorities of the Power concerned.

3. In connection with the enforcement of judgments objections affecting a claim reduced to judgment may be asserted by proceedings before the competent German court under Section 767 of the German Code of Civil Procedure.

## ARTICLE 6

1. There is hereby established a Mixed Board (referred to in this Article as "the Board"). The task of the Board will be, without calling in question the validity of the convictions, to make recommendations for the termination or reduction of sentences, or for parole, in respect of persons convicted by a tribunal of an Allied Power of crimes against humanity or against the laws and usages of war or of crimes committed during the war, commonly referred to as "war crimes", and confined by the Three Powers in prisons in the Federal Republic on the entry into force of the present Convention.

2. The Board shall consist of six members, of whom one shall be appointed by the Government of each of the Three Powers and three by the Federal Government. The members of the Board shall be independent persons not exercising other official functions except as a judge or university teacher and not subject to instructions of the appointing Governments in formulating their recommendations. No person may be appointed who has participated in any manner in any war crimes trial.

3. (a) The right to terminate or reduce sentences and to grant parole in respect of persons referred to in paragraph 1 of this Article shall be exercised by the Power which imposed the sentence.

(b) The right shall not be exercised unless the Board has previously made a recommendation. A unanimous recommendation of the Board shall be binding upon the Power which imposed the sentence.

(c) Save on matters dealt with in paragraphs 5 and 8 of this Article, the Board shall act only at the request of one of the Four Governments relating to a particular case or on the receipt of a petition by or on behalf of a person referred to in paragraph 1.

4. The Three Powers retain the rights heretofore held and exercised by them relating to the custody and carrying out of sentences of the persons referred to in paragraph 1 of this Article and will continue to exercise such rights until the Federal Republic is in a position to accept the custody of such persons.



5. The Federal Republic undertakes that at the time when the Three Powers transfer custody of the persons referred to in paragraph 1 of this Article to it, it will continue to confine such persons for the remainder of their sentences, as then in effect or as thereafter modified by the procedure provided in this Article under the same conditions that govern their detention on the date of such transfer of custody. Changes in those conditions after such date shall be made only in accordance with decisions of the Board. In these matters the Board's decisions shall be final.

6. After the Board has been constituted, its members shall have free access to the institutions in which the persons referred to in paragraph 1 of this Article are confined and to such persons themselves.

7. The Board shall act by the vote of a majority of its six members.

8. The Board shall have exclusive power to decide, without reference to Governments, questions of interruption of sentences on compassionate or other grounds in accordance with principles and rules of procedure adopted by it. Pending the adoption of such principles and rules, the Board shall continue to apply the existing practices of each of the Three Powers in this field to the persons in the custody of such Power.

9. Notwithstanding the provisions of paragraphs 3 and 8 of this Article, and until the Board shall have commenced to function, each of the Three Powers may continue existing procedures with respect to reduction of sentences, release and interruption of sentences on compassionate or other grounds, without receiving any recommendation from the Board.

10. The rights of the Three Powers referred to in sub-paragraph (a) of paragraph 3 and in paragraph 4 of this Article and, without prejudice to the provisions of sub-paragraph (b) of paragraph 3 and of paragraphs 6 and 8, action taken thereunder shall not be subject to the jurisdiction of the Arbitration Tribunal or of any other tribunal or court.

11. The provisions of Article 7 of this Chapter shall not apply to the matters dealt with in this Article.

#### ARTICLE 7

1. All judgments and decisions in criminal matters heretofore or hereafter rendered in Germany by an tribunal or judicial authority of the Three Powers or any of them shall remain final and valid for all purposes under German law and shall be treated as such by German courts and authorities:

2. The German authorities will confine in German institutions until the termination of their sentences persons, other than members of the Forces (as defined in the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany), who have been or shall be sentenced by, or who are held for trial before, any tribunal referred to in paragraph 1 of this Article.

3. The German authorities shall treat persons confined in German institutions pursuant to paragraph 2 of this Article in accordance with humane penological principles and in the same manner as is prescribed for persons sentenced by, or held for trial before, German



courts. The authorities of the Three Powers shall have access to German institutions in which such persons are confined and to such persons themselves.

4. The costs of confinement in German institutions pursuant to this Article shall be borne by the German authorities.

5. There shall be established within thirty days after the entry into force of the present Convention a Mixed Clemency Advisory Board consisting, on a basis of parity, of not less than one member appointed by the Government of each of the Three Powers and not less than three members appointed by the Federal Government. The Board shall sit in panels consisting of one member appointed by the Government of the Power concerned and one of the members appointed by the Federal Government, for the purpose of making recommendations to the Power concerned or the Federal Republic, as required in paragraphs 6 and 7 of this Article, in matters of termination or reduction of sentence, parole, pardon and other acts of clemency regarding persons confined in German institutions pursuant to the provisions of paragraph 2 of this Article.

6. The Federal Republic shall have the exclusive right to make final decisions in all matters of termination or reduction of sentences, parole, pardon and other acts of clemency regarding German nationals (within the meaning of German law) confined, pursuant to paragraph 2 of this Article, in German institutions under German control. The recommendation of the Mixed Clemency Advisory Board established pursuant to paragraph 5 of this Article shall be obtained prior to any such decision. In cases of persons sentenced for offences against Allied personnel or property or against the Allied administration in Germany the Federal Republic shall make decisions in favor of such persons only in accordance with the recommendation of the appropriate panel of the Board.

7. Each of the Three Powers shall have the exclusive right to make final decisions in all matters of termination or reduction of sentences, parole, pardon and other acts of clemency regarding all persons, other than those referred to in paragraph 6 of this Article, sentenced by its courts and confined, pursuant to paragraph 2 of this Article, in German institutions under German control. The recommendation of the Mixed Clemency Advisory Board established pursuant to paragraph 5 of this Article shall be obtained prior to any such decision.

#### ARTICLE 8

The following persons shall enjoy immunity from suit within the Federal territory during their terms of office and, after the expiry of their terms of office, shall continue to enjoy such immunity in respect of acts performed in the exercise of their official duties:

(a) Members of the tribunals referred to in paragraph 2 of Article 4 of this Chapter;

(b) Members of the tribunals, referred to in paragraph 1 of Article 6 of Chapter Three of the present Convention, to which the Supreme Restitution Court succeeds;

(c) Members, appointed by any of the Three Powers, of the Mixed Board established by paragraph 1 of Article 6 of this Chapter or of the Mixed Clemency Advisory Board established pursuant to paragraph 5 of Article 7 of this Chapter;



(d) Members, appointed by any of the Three Powers, of the Board of Review referred to in paragraph 7 of Article 4 of Chapter Two of the present Convention;

(e) Members of the agencies established under Articles 4 and 5 of Chapter Two of the present Convention.

During their terms of office they shall also enjoy in the Federal territory the same privileges and immunities as are accorded members of diplomatic missions.

## CHAPTER TWO—DECARTELIZATION AND DECONCENTRATION

### ARTICLE 1—PROVISIONS AGAINST RESTRAINTS OF COMPETITION

1. Until the entry into force of a Federal law against restraints of competition which is in accordance with the substantial provisions of the draft law submitted by the Federal Government to the Bundesrat (Hundesrat Document No. 121/52) the following legislation shall be maintained in force:

(a) United States Military Government Law No. 56;

(b) United Kingdom Military Government Ordinance No. 78;

(c) Ordinance No. 96 of the French Commander-in-Chief;

(d) Implementing regulations issued under the law and ordinances referred to in sub-paragraphs (a), (b) and (c).

Paragraph 1 of Article 1 of Chapter One of the present Convention shall not apply hereto.

2. The Allied legislation specified in paragraph 1 of this Article shall be implemented by agencies of the Three Powers. This shall not affect any existing powers of the authorities or courts of the Federal Republic or of the Laender with respect to the implementation of such Allied legislation.

3. If the Allied legislation specified in paragraph 1 of this Article ceases to be applicable, orders issued and decisions taken by the agencies of the Three Powers or by authorities or courts of the Federal Republic or of the Laender pursuant to such legislation, as far as such orders and decisions are final, shall in every respect be of equal validity with the corresponding orders or decisions of any authority or court which is the competent authority under the Federal law referred to in paragraph 1 of this Article.

4. United States and United Kingdom Military Governments Order No. 1 and French Military Government Decree No. 134 concerning the prohibition of monopolistic conditions in the German motion picture industry shall be deemed to be repealed.

5. The substantial provisions of the Federal law referred to in paragraph 1 of this Article shall not be modified until after the establishment of the Federal Cartel Agency (Bundeskartellamt) provided for by that law.

### ARTICLE 2—UFA/UFJ LAW

1. Allied High Commission Law No. 32 on Disposition of Former Reich-Owned Motion Picture Property shall be maintained in force until the entry into force of a Federal law on the liquidation and deconcentration of former Reich-owned motion picture property which is in accordance with the substantial provisions of the draft law sub-



mitted by the Federal Government to the Bundestag (Bundestag Document No. 2962). Paragraph 1 or Article 1 of Chapter One of the present Convention shall not apply hereto. The Federal law shall be maintained in force until completion of the transfer of property covered by the law to private ownership as provided therein and until completion of liquidation of the Ufa Filmgesellschaft m. b. H. (Ufi) and the Cautio Truehandgesellschaft m. b. H.

2. Until the entry into force of the Federal law referred to in paragraph 1 of this Article, the powers and responsibilities under Allied High Commission Law No. 32 shall devolve upon the Federal Government, which undertakes to exercise those powers and responsibilities in a manner consistent with the provisions and objectives of Law No. 32.

#### ARTICLE 3—GROSSBANKEN

The Federal Law on the Regional Scope of Credit Institutions of 29 March 1952 (Bundesgesetzblatt Teil I Seite 217) shall be maintained in force in its entirety until the completion of the transfer of the assets of the Grossbanken to the successor banks and the delivery of the shares of the successor banks to the Bank deutscher Länder for distribution to the shareholders, as provided therein. The Federal Republic undertakes not to alter the provisions of that law regarding the protection of creditors in a manner detrimental to the interest of creditors.

#### ARTICLE 4—DECONCENTRATION OF THE COAL MINING, IRON AND STEEL INDUSTRIES

1. Allied High Commission Law No. 27 on the Reorganization of the German Coal, Iron and Steel Industries, as amended by Law No. 76, together with all legislation issued thereunder, shall be maintained in force until such time as the deconcentration of the German coal mining and iron and steel industries in accordance with Law No. 27 has been carried out.

2. The powers of the Allied High Commission, of the Combined Coal Control Group and of the Combined Steel Group under Law No. 27 shall be vested in an agency, which is hereby established. This agency shall consist of persons appointed by the Three Powers and shall be responsible to them. All rights and obligations created by orders or other action taken by this agency within the scope of paragraphs 1 to 4 inclusive of this Article shall be valid for all purposes.

3. The agency established by paragraph 2 of this Article shall exercise its powers only to the limited extent and for no other purposes than those specified below:

(a) Control of the liquidation or reorganization of the enterprises listed or described in Schedule A of Law No. 27, including the approval of applications for the disposition of any or some of the residual assets, and the drawing up or approval and the promulgation of a plan for the disposition of the remaining residual assets of each of the enterprises concerned.

This power shall expire with the promulgation of this plan for the disposition of residual assets in respect of each of the enterprises concerned. Residual assets the disposition of which has been applied for and approved prior to the promul-



gation of this plan shall be released from control upon such approval of the application.

(b) Control of the liquidation of the enterprises listed or described in Schedule B of Law No. 27, including the drawing up or approval and the promulgation of a plan for the disposition of residual assets of each of the enterprises concerned.

This power shall expire with the promulgation of this plan for the disposition of residual assets in respect of each of the enterprises concerned.

(c) Releases from control under Law No. 27 of the enterprises which still remain in Schedule C thereof, or any other measures applicable to them under Law No. 27.

This power shall expire with the establishment of the unit companies to be estimated in implementation of Law No. 27; should any enterprises still remain in Schedule C at that time, they shall thereupon be automatically released from control.

(d) Establishment of further unit companies including the appointment of the first Supervisory Board, Aufsichtsrat), the first Managing Board (Vorstand) and the appointment and discharge of trustees as well as the seizure and transfer of assets of enterprises listed or described in Schedule A of Law No. 27 insofar as this is required to provide with assets the unit companies established or to be established.

This power shall expire with the establishment of the unit companies to be established in implementation of Law No. 27 and with the transfer of assets to be transferred to such companies, provided, however, that the power to appoint and discharge trustees and to issue instructions to the trustees to the extent provided for in paragraph 4 of this Article shall expire with the expiration of the powers specified in subparagraphs (a) and (f) of this paragraph.

(e) Distribution of the liabilities of the enterprises listed or described in Schedule A of Law No. 27, including encumbrances, among the unit and other successor companies (including the deconcentrated subsidiary companies) and the remaining assets to be disposed of.

This power shall expire with the promulgation of plans for the distribution of liabilities of the enterprises listed or described in Schedule A of Law No. 27, at the latest, however, with the expiration of the powers specified under subparagraphs (a) and (f) of this paragraph.

(f) Determination of the nature and amount of the compensation to be given by the individual unit or other successor company in consideration of the transfer or assets. The agency shall adopt as a general principle that, after appropriate compensation has been afforded to the creditors of the enterprises listed or described in Schedule A of Law No. 27, the remainder of the compensation for the assets received by the unit and other successor companies shall be in the form of shares issued by such companies.

This power shall expire with the determination of the nature and amount of the compensation.

(g) Distribution of the compensation to the claimants entitled thereto.



This power shall expire with the promulgation of plans for the enterprises listed or described in Schedule A of Law No. 27 for the distribution of the compensation among the claimants entitled thereto, at the latest, however, with the expiration of the powers specified in sub-paragraphs (a) and (f) of this paragraph.

(h) Arrangements concerning pensions of manual workers and salaried employees.

This power shall expire with the expiration of the power specified in sub-paragraph (e) of this paragraph.

(i) Establishment of the Ruhr Joint Coal Services Organization and the Group Mines Sales Agencies to replace the German Coal Sales Organization (Deutscher Kohlenverkauf).

This power shall expire with the establishment of these companies.

4. (a) Paragraphs 1 to 3 inclusive of this Article shall not be interpreted to mean that the agency established by paragraph 2 shall have the power to supervise operational (innerorganisatorisch) problems of the unit companies, in particular their production programmes and their investment and personnel policies. This shall not affect the right of the agency either to appoint or to discharge trustees charged with the administration of shares of unit companies or to issue instructions to such trustees and to the unit companies in carrying out the purposes of paragraph 3.

(b) (i) A unit or other successor company shall not borrow an amount which either exceeds DM 1,000,000 or, together with all previous borrowing of that unit or other successor company, exceeds 10 per cent of the nominal capital of that unit or other successor company, unless a German auditor or a Germany auditing company and the Federal Association of Private Banking in an expert opinion both confirm in writing that after due examination of the circumstances of that unit or other successor company and the amounts and terms of the debts of the enterprise or enterprises listed or described in Schedule A of Law No. 27 from which it has derived, the contemplated borrowing does not endanger the security of the creditors of such enterprise or enterprises.

(ii) Where such enterprise or enterprises has or have foreign creditors whose total claims exceed 5 percent of the nominal capital of such enterprise or of such enterprises, respectively, the agency may stipulate that the expert opinion referred to in item (i) of this sub-paragraph be examined by an expert to be proposed to the agency by representatives of the foreign creditors and appointed as an expert by the agency. This examination is to be made with a view to whether or not the expert opinion appears justified by the factual statements contained therein; if the expert thus appointed by the agency does not confirm the conclusion of the expert opinion, the borrowing shall not be made.

(iii) The agency may exempt a unit or other successor company from the restrictions referred to in items (i) and (ii) of this sub-paragraph if the agency deems them unnecessary in the particular case.



(iv) The restrictions referred to in items (i) and (ii) of this sub-paragraph shall expire as soon as it has been established to what extent and in what manner the unit or other successor company shall be liable to the creditors of the enterprise or enterprises from which the unit or other successor company has derived and the amount of the claim has been transferred to the books and balance sheet of the unit or other successor company.

(c) The trustees appointed for the administration of the shares of a unit company may exercise shareholders' rights subject only to the following restrictions:

(i) They may not vote for the discharge of appointed members of the Supervisory Board (Aufsichtsrat);

(ii) On the occasion of elections to the Supervisory Board they may vote only for the re-election of the members of the Supervisory Board appointed by the founders or by the court;

(iii) After 60 percent of the shares subject to their administration have been distributed to the claimants entitled thereto, they shall have no vote on the occasion of the election or discharge of members of the Supervisory Board;

(iv) They may not vote for changes in the statutes, except that they may vote for increases in the capital for the purpose of issuing additional common stock for cash and for decreases in the capital, and may also vote to make changes in the statutes which are merely textual (second sentence of paragraph (1) of Section 145 of the Stock Law (Aktiengesetz)).

The agency established under paragraph 2 of this Article may permit exceptions in the cases specified in items (i), (ii) and (iv) of this sub-paragraph. Until the occurrence of the events stipulated in item (iii), no member of the Supervisory Board may be elected for a period beyond the close of the General Assembly which votes on the acceptance of the annual report (Entlastung) for the business year following such election. This shall not apply to members of the Supervisory Board elected according to Articles 6 and 8 of the Law for Codetermination of Labour in the Supervisory Boards and Managing Boards of Enterprises of the Coal Mining and Iron and Steel Producing Industries of 21 May 1951 (Bundesgesetzblatt Teil I Seite 347).

5. The provisions of this Article shall be without prejudice to such expansion or affiliation of enterprises of the German coal mining and iron and steel industries as shall be permitted under the Treaty on the Establishment of the European Community for Coal and Steel. This shall not affect the exercise of the powers of the agency provided for in paragraphs 3 and 4 of this Article. Measures decreed by regulations or orders under Law No. 27 by the Allied High Commission, any of its subordinate bodies or the agency shall be carried through to completion. When, after the establishment of the High Authority of the European Community for Coal and Steel, actions are contemplated or directed by the agency, which by their nature require the authorization of the High Authority under Article 65 of the Treaty on the Establishment of the European Community for Coal and Steel, the agency shall seek an authorization by the High Authority for



such actions as consistent with Article 65. If the High Authority rules that such actions cannot be authorized as consistent with Article 65, the agency shall frame or modify its directions accordingly.

6. (a) After the entry into force of the present Convention the Board of Review provided for under Article 13 (as amended) of Law No. 27 shall consist of one member appointed by each of the Three Powers and three members appointed by the Federal Republic. As so constituted this Board of Review shall continue to be the sole appropriate body to review, on the petition of interested persons, any orders issued under paragraph (c) of Article 5 of Law No. 27. The independence of the members of the Board of Review and their freedom of decision shall not be impaired by instructions or other actions of their Governments. Before rendering a decision the Board of Review shall grant the claimant a hearing.

(b) The emoluments of the members of the Board of Review shall be paid by the Federal Republic and by the Three Powers, each in respect of the member or members appointed by it. One-half of the remaining expenses of the Board of Review shall be borne by the Three Powers, the other half by the Federal Republic.

#### ARTICLE 5—MIXED COMMITTEE

1. A mixed committee of experts composed of seven members shall be established according to the following procedure. Three of its members shall be appointed by the Federal Republic and one by each of the Three Powers immediately after the Federal Government has received the first application under paragraph 3 of this Article and has notified the Three Powers of that fact. The members so appointed shall elect a seventh member by majority vote within six months after this notification. If within that time the seventh member shall not have been elected or shall not have accepted election, the Board of Directors of the Bank for International Settlements shall be requested to appoint as the seventh member an expert who shall not be a German national or a national of any of the Three Powers.

2. The function of the Mixed Committee shall be to consider applications for extensions of the final time for the disposition of securities required by regulations or orders of the Allied High Commission, its subordinate bodies or the agency established by paragraph 2 of Article 4 of this Chapter or by reason of the terms of a plan such as is described in paragraph 3 of that Article.

3. Applications must be filed with the Federal Government not later than one year before the expiration of the time fixed for the disposition of the securities. The applicant shall, until the decision of the Mixed Committee is rendered, be entitled to file any additional supporting papers.

4. The Mixed Committee shall extend the time fixed for the disposition of the securities, provided that the applicant establishes that all of such securities could not, with the exercise of reasonable efforts, be disposed of on reasonable terms and on a basis which is compatible with the German public interest and that such disposition will not be possible within the remaining time without a disruptive effect on the German capital market.



5. Any extension under paragraph 4 of this Article shall be granted for not more than one year but shall be subject to renewal upon a further application on the basis of the standards set forth in that paragraph. The Mixed Committee may attach appropriate conditions to any such extension or renewal.

6. The decision of a majority of the members shall constitute the decision of the Mixed Committee. The Committee shall render its decision before the expiration of the time fixed for the disposition of the securities.

7. The emoluments of the members of the Mixed Committee shall be paid by the Federal Republic and the Three Powers, each in respect of the member or members appointed by it. One-half of the emoluments of the seventh member shall be paid by the Federal Republic, and one-sixth by each of the Three Powers. The mixed Committee may charge the remaining costs, in whole or in part, to the applicants.

8. The Mixed Committee shall adopt its own rules for the conduct of its business.

#### ARTICLE 6—DECONCENTRATION OF I. G. FARBENINDUSTRIE I. L.

1. Control Council Law No. 9 providing for the Seizure of Property Owned by I. G. Farbenindustrie A. G. and the Control thereof, insofar as it provides for the dispersion of ownership of such property, Allied High Commission Law No. 35 on the Dispersion of Assets of I. G. Farbenindustrie A. G., as amended by Law No. 77, together with all legislation issued thereunder, shall be maintained in force until such time as the deconcentration of I. G. Farbenindustrie in accordance with this legislation has been completely carried out.

2. The powers of the Allied High Commission and the Tripartite I. G. Farben Control Group under Law No. 35 shall be vested in an agency, which is hereby established. This agency shall consist of persons appointed by the Three Powers and shall be responsible to them. All rights and obligations created by orders or other actions taken by this agency within the scope of paragraphs 1 to 4 inclusive of this Article shall be valid for all purposes.

3. The agency established by paragraph 2 of this Article shall exercise its powers only to the limited extent and for no other purposes than those set forth below:

(a) Control of the liquidation or reorganization of I. G. Farbenindustrie A. G. i. L. and the companies listed in the Schedule to Law No. 35, including the approval of applications for the disposition of any or some of the residual assets, and the drawing up or approval and promulgation of a plan for the disposition of the remaining residual assets of I. G. Farbenindustrie A. G. i. L. and the other companies concerned.

This power shall expire for I. G. Farbenindustrie A. G. i. L. with the promulgation of this plan for the disposition of its residual assets and shall expire for each of the other companies referred to in this sub-paragraph with the promulgation of a plan for its reorganization. Residual assets the disposition of which has been applied for and approved prior to the promulgation of this plan shall be released from control upon such approval of the application.



(b) Establishment of further successor companies including the appointment of the first Supervisory Board (Aufsichtsrat), the first Managing Board (Vorstand) and the appointment and discharge of trustees as well as the transfer of assets of I. G. Farbenindustrie A. G. i. L. and of the companies listed in the Schedule to Law No. 35 insofar as this is required to provide with assets successor companies established or to be established.

This power shall expire with the establishment of the successor companies to be established in implementation of Law No. 35 and with the transfer of assets to be transferred to such companies; provided, however, that the power to appoint and discharge trustees and to issue instructions to the trustees to the extent provided for in paragraph 4 of this Article shall expire with the expiration of the powers specified in subparagraphs (a) and (b) of this paragraph;

(c) Distribution of liabilities of I. G. Farbenindustrie A. G. i. L., including encumbrances, among the successor companies (including the deconcentrated subsidiary companies) and the remaining assets to be disposed of.

This power shall expire with the promulgation of a plan for the distribution of liabilities of I. G. Farbenindustrie A. G. i. L. and of the companies listed in the Schedule to Law No. 35, at the latest, however, with the expiration of the powers specified in subparagraphs (a) and (d) of this paragraph;

(d) Determination of the nature and amount of the compensation to be given by the individual successor company in consideration of the transfer of assets. The agency shall adopt, as a general principle, that, after appropriate compensation has been afforded to the creditors of I. G. Farbenindustries A. G. i. L. and of the companies listed in the Schedule to Law No. 35, the remainder of the compensation for the assets received by the successor companies shall be in the form of shares issued by such companies.

This power shall expire with the determination of the nature and amount of the compensation;

(e) Distribution of the compensation to the claimants entitled thereto.

This power shall expire with the promulgation of the plan for the distribution of the compensation among the claimants entitled thereto, at the latest, however, with the expiration of the powers specified in sub-paragraphs (a) and (d) of this paragraph;

(f) Arrangements concerning pensions of manual workers and salaried employees.

This power shall expire with the expiration of the power specified in sub-paragraph (c) of this paragraph.

(g) Exceptions or exemptions from the provisions of Law No. 35 as contemplated therein.

This power shall expire at the time that all other powers of the agency shall have expired.

4. (a) Paragraphs 1 to 3 inclusive of this Article shall not be interpreted to mean that the agency established by paragraph 2 shall



have the power to supervise operation (innerorganisatorisch) problems of the successor companies, in particular their production programmes and their investment and personnel policies. This shall not affect the right of the agency either to appoint or discharge trustees charged with the administration of shares of successor companies or to issue instructions to such trustees and to the successor companies in the exercise of its powers under paragraph 3.

(b) (i) A successor company shall not borrow an amount which either exceeds DM 1,000,000 or, together with all previous borrowing of that successor company, exceeds 10 per cent of the nominal capital of that successor company, unless a German auditor or a German auditing company and the Federal Association of Private Banking in an expert opinion both confirm in writing that after due examination of the circumstances of that successor company and the terms and amounts of the debts of I. G. Farbenindustrie A. G. i. L. or of the company or companies listed in the Schedule to Law No. 35 from which it has derived, the contemplated borrowing does not endanger the security of the creditors of such company or companies.

(ii) Where such company or such companies has or have foreign creditors whose total claims exceed 5 per cent of the nominal capital of such company or of such companies, respectively, the agency may stipulate that the expert opinion referred to in item (i) of this sub-paragraph be examined by an expert to be proposed to the agency by representatives of the foreign creditors and appointed as an expert by the agency. This examination is to be made with a view to whether or not the expert opinion appears justified by the factual statements contained therein; if the expert thus appointed by the agency does not confirm the conclusion of the expert opinion, the borrowing shall not be made.

(iii) The agency may exempt a successor company from the restriction referred to in items (i) and (ii) of this sub-paragraph if the agency deems them unnecessary in the particular case.

(iv) The restrictions referred to in items (i) and (ii) of this sub-paragraph shall expire as soon as it has been established to what extent and in what manner the successor company shall be liable to the creditors of the enterprise or enterprises from which the successor company has derived and the amount of the claim has been transferred to the books and balance sheet of the successor company.

(c) The trustees appointed for the administration of the shares of a successor company may exercise shareholders' rights subject only to the following restrictions:

(i) They may not vote for the discharge of appointed members of the Supervisory Board (Aufsichtsrat);

(ii) On the occasion of elections to the Supervisory Board they may vote only for the re-election of the members of the Supervisory Board appointed by the founders or by the court;



(iii) After 60 percent of the shares subject to their administration have been distributed to the claimants entitled thereto, they shall have no vote on the occasion of the election or discharge of members of the Supervisory Board.

(iv) They may not vote for changes in the statutes, except that they may vote for increases in the capital for the purpose of issuing additional common stock for cash and for decreases in the capital, and may also vote to make changes in the statutes which are merely textual (second sentence of paragraph (1) of Section 145 of the Stock Law (Aktien-gesetz)).

The agency established under paragraph 2 of this Article may permit exceptions in the cases specified in items (i), (ii) and (iv) of this sub-paragraph. Until the occurrence of the events stipulated in item (iii), no member of the Supervisory Board may be elected for a period beyond the close of the General Assembly which votes on the acceptance of the annual report (Entlastung) for the business year following such election.

5. The Board of Review referred to in paragraph 6 of Article 4 of this Chapter shall continue to be the sole appropriate body to review, on the petition of interested persons, any orders under paragraph 1 of Article 5 of Law No. 35.

#### ARTICLE 7—DEFINITION OF TERMS USED IN ARTICLES 4 AND 6

For the purposes of Articles 4 and 6 of this Chapter,

(a) the term “promulgation of a plan” shall be construed to include the simultaneous issue of all documents, orders and decisions, to the extent required to make legally binding all the details of the plan, in accordance with the provisions of paragraph 2 of Article 4 and paragraph 2 of Article 6;

(b) the term “residual assets” shall be construed to include all assets of any kind, tangible or intangible, other than assets transferred or to be transferred to unit or successor companies.

#### ARTICLE 8—IMPLEMENTATION OF ARTICLES 4 AND 6

The Three Powers shall ensure that the agencies established by Articles 4 and 6 of this Chapter will in all essential questions consult the Federal Government before exercising their powers and that they will expedite to the utmost the completion of their tasks. In turn, the Federal Government shall cooperate towards the earliest possible completion of the tasks of the agencies. The aim of these endeavours of the Three Powers and the Federal Government is that the agencies shall complete their tasks before 31 December 1952. After the powers of the agencies have expired, the Federal Government shall ensure that the plans established or approved by the agencies under paragraph 3 of Article 4 and paragraph 3 of Article 6, will be carried through in accordance with their terms and provisions. The Federal Government will inform the Three Powers of the progress in the implementation of plans so established or approved.



## ARTICLE 9—PUBLICATION

All orders, decisions, or other actions authorized to be issued by agencies of the Three Powers under the various provisions of this Chapter shall be published at the request of the issuing agency in the *Bundesanzeiger*.

## ARTICLE 10—PROTECTION OF THE STATUS OF TRADESMEN AND PROFESSIONALS

1. Natural or juristic persons who between 8 May 1945 and the date of entry into force of the present Convention have commenced a trade or a free profession and continued it until that date in those parts of the Federal Republic in which laws, orders, directives, or other enactments or instructions of the Occupation Authorities had established relaxed requirements for the commencement of a trade or a free profession may be restrained from the further exercise of such trade or profession, commenced in accordance with such relaxed requirements; only if

(a) the person engaged in such trade or profession has been deprived of his right to exercise such trade or profession, because of a criminal offence or because of an irregularity punishable by an administrative fine, by a sentence of a criminal court, or by a decision imposing an administrative fine which is subject to judicial review under criminal law; or

(b) in the course of governmental administrative proceedings the lack of personal reliability of the person engaged in a trade has been established on the basis of facts in the light of which the further exercise of such trade by such person would constitute a danger to the public originating directly from his activities. In any such proceedings he shall be entitled to all legal safeguards applicable to administrative proceedings under the general statutory provisions pertaining thereto; or

(c) in the case of a juristic person or any type of enterprise not conducted by its owner, a sentence, decision or order referred to in sub-paragraphs (a) and (b) of this paragraph has been issued against one of its responsible managers and he has not been removed from his managerial position within a reasonable period of time.

2. That a person specified in paragraph 1 of this Article did not or does not submit evidence of his professional competence, that no economic need exists for the further exercise of such trade or profession by him or that he fails to belong to a professional association established under private or public law shall be no basis for a restraint under paragraph 1. The same applies to cases where such a person is not inscribed in a professional roster of any kind, if he has been barred from inscription or his application for inscription has been rejected or the inscription has been cancelled.



## CHAPTER THREE—INTERNAL RESTITUTION

## ARTICLE 1

This Chapter relates to:

(a) The restitution of identifiable property to victims of Nazi oppression pursuant to the following legislation:

(i) *For the British Zone of Occupation*

Military Government Law No. 59, as amended or supplemented by Ordinances No. 205, 212, 225, 232, 233, 237, 240 and 243 of the United Kingdom High Commissioner, by Notice No. 1 under Ordinance No. 233 and by Regulations No. 1 to 13 inclusive in their last amended versions;

(ii) *For the United States Zone of Occupation*

Military Government Law No. 59, as amended or supplemented by Amendments No. 1 and 2, by Laws No. 3, 4, 5, 12, 13, 14, 21 (as amended) and 30 of the United States High Commissioner and by the regulations issued pursuant thereto;

(iii) *For the French Zone of Occupation*

Ordinance No. 120 of the French Commander-in-Chief, as amended or supplemented by Ordinances No. 156, 186, and 213 of the French Commander-in-Chief and by Ordinances No. 268 and 274 of the French High Commissioner, Order No. 177 under Ordinance No. 120 (as amended) and Ordinance No. 252 of the French High Commissioner as amended by Ordinance No. 255;

(b) The restitution or reallocation of property seized under the National Socialist regime from cooperative societies, trade unions, Charitable organizations and other democratic organizations, pursuant to Control Council Directive No. 50 and to the following legislation:

(i) *For the British Zone*

Military Government Ordinances No. 150 and 159, as amended by Ordinances No. 208 and 227 of the United Kingdom High Commissioner and paragraph 3 of Article 4 of Military Government Ordinance No. 202;

(ii) *For the United States Zone*

Military Government Law No. 58, as amended or supplemented by Supplement No. 1 to Instructions Implementing Military Government Law No. 5 and Control Council Directive No. 50, by Regulation No. 1 pursuant to Military Government Law No. 58 and by Article 2 of Allied High Commission Law No. A-14;

(iii) *For the French Zone*

Ordinance No. 141 of the French Commander-in-Chief;

(c) The blocking, control, administration and final disposal, in accordance with the legislation referred to in sub-paragraphs (a) and (b) of this Article, of the property also referred to in those



sub-paragraphs pursuant to SHAEF and Military Government Laws No. 52 (as amended) and the regulations, orders, licenses and instructions issued thereunder, so far as applicable to such property or the proceeds thereof.

#### ARTICLE 2

The Federal Republic hereby acknowledges the need for, and assumes the obligation to implement fully and expeditiously and by every means in its power, the legislation referred to in Article 1 of this Chapter and the programmes for restitution, and reallocation thereunder provided. The Federal Republic shall entrust a Federal agency with ensuring the fulfilment of the obligation undertaken in this Article, paying due regard to the provisions of the Basic Law. The following Articles of this Chapter shall not be construed as limiting to the measures therein specified the obligation assumed under this Article.

#### ARTICLE 3

1. Subject to the provisions of Article 6 of this Chapter, the legislation referred to in Article 1 of this Chapter, as amended in paragraph 2 of Article 4 of this Chapter, shall be maintained in force until all claims filed thereunder have been fully dealt with. Moreover, that portion of such legislation as relates to the establishment, rights and continued existence of successor organizations and trust corporations shall be maintained in force until all such organizations and corporations have completed the tasks for which they were created.

2. The Federal Republic may exercise all legislative exercisable by the Three Powers or any of them pursuant to such legislation, in a manner not inconsistent therewith, by means of Federal legislation or of ordinances of the Federal Government.

3. The following administrative powers of the United Kingdom High Commissioner shall be exercisable within the British Zone by the Federal Government:

(a) The powers under Article IV of British Military Government Ordinance No. 159 and Article V of Ordinance No. 150 to approve regulations issued by the General Organizations Claims Commission and the Trades Union Property Claims Commission respectively;

(b) The powers under Article V of Ordinance No. 159 and Article VI of Ordinance No. 150 to issue additional instructions to the two Commissions;

(c) The powers under Article I (as amended) of Ordinance No. 159 and Article II of Ordinance No. 150 to appoint members of the two Commissions.

4. The Federal Republic hereby undertakes to maintain and to augment or supplement in the several Zones of Occupation of the Three Powers, where necessary for the effective carrying out of the programmes referred to in Article 2 of this Chapter, the existing administrative and judicial agencies or organizations which are concerned with:



(a) the blocking, control, administration, unblocking and disposal of property subject to claims under the legislation referred to in Article 1;

(b) the filing, investigation, assessment, adjudication and final settlement of claims under that legislation.

5. The Federal Republic further undertakes:

(a) to afford the Three Powers or their authorized agents access to the administrative and judicial agencies or organizations referred to in paragraph 4 of this Article for the regular observation and inspection of all matters dealt with in this Chapter and to furnish information and produce files and records with respect thereto;

(b) to preserve intact for a period equal to the period prescribed by German law for the preservation of judicial records, and running from the entry into force of the present Convention, all records then existing of judicial or administrative proceedings and other official activities relating to the matters referred to in paragraph 4 of this Article; and to preserve intact all such records made after the entry into force of the present Convention for such period from the making of such records. The said period shall be curtailed only if the Three Powers shall expressly so consent;

(c) to continue the existing system of reports from the agencies and organizations referred to in sub-paragraph (a) of this paragraph to the Three Powers or their authorized agencies;

(d) at all times after the entry into force of the present Convention, to apply to non-residents who are successful claimants under the legislation referred to in Article 1 of this Chapter, terms and conditions for the following transactions:

(i) the use and disposal (including the removal from the Federal territory) of property restituted to them, or of property acquired in replacement or with the proceeds thereof, and

(ii) the use and disposal of Deutsche Mark balances resulting from the satisfaction of restitution claims and from the proceeds of the realization of restituted properties including the conversion of such balances into foreign exchange and the transfer abroad of such exchange

which shall be no less favourable than those applicable to them immediately before the entry into force of the present Convention, or than those which may, at the time of the transaction, be applicable to owners of other property who give up their ordinary residence in the Federal territory, whichever are the more favourable.

6. The undertakings of the Federal Republic pursuant to this Article and to Article 2 of this Chapter shall not involve any direct obligation with regard to the establishment of the Restitution Agencies of the Laender, and the agencies of the Laender dealing with the matters referred to in paragraph (c) of Article 1 of this Chapter, and their administrative procedures. However, no changes shall be made with regard to existing establishments and administrative procedures which would in any way impede or endanger the full and expeditious implementation of the programmes referred to in Article 2.



## ARTICLE 4

1. The Federal Republic hereby undertakes

(a) subject to paragraph 3 of this Article, to ensure the payment to restitutes of all judgments or awards which have been or hereafter shall be given or made against the former German Reich under the legislation referred to in Article 1 of this Chapter;

(b) to assume forthwith, by appropriate arrangements with the City of Berlin, liability for the payment, on terms corresponding to those set out in this Article, of all judgments and awards against the former German Reich under the internal restitution legislation in force in the Western Sectors of Berlin.

2: The legislation referred to in sub-paragraphs (a) and (b) of Article 1 of this Chapter shall be deemed to be amended so as to provide that judgments or awards based on indebtedness in Reichsmarks of the former Reich for a sum of money (*Geldsummenasprueche*) shall be converted into Deutsche Marks at the rate of ten Reichsmarks for one Deutsche Mark. Judgments or awards for compensation which may be given against the former Reich under the legislation referred to in sub-paragraphs (a) and (b) of Article 1 shall be made in Deutsche Marks assessed in accordance with the general principles of German law applicable to the assessment of compensation as set forth in the German Civil Code.

3. The obligation of the Federal Republic to the Three Powers with respect to money judgments and awards under paragraph 1 of this Article shall be satisfied when such judgments and awards shall have been paid or shall, if the Federal Republic so requests, be considered to have been satisfied when the Federal Republic shall have paid a total of DM 1,500,000,000 thereon. In determining the time and method of payment of such judgments and awards, the Federal Republic may take into consideration its capacity to pay.

## ARTICLE 5

Successor organizations and trust corporations appointed pursuant to the legislation referred to in sub-paragraph (a) of Article 1 of this Chapter, whether or not organized under German law, now enjoy immunity from taxation in the Federal Republic. With regard to taxes the proceeds of which accrue exclusively to the Federation, the organizations and corporation shall continue to enjoy this immunity. They shall also be exempt from any exceptional taxes, levies and imposts, the incidence of which is in fact upon capital assets, imposed in whole or in part for the specific purpose of meeting charges arising out of the war, or out of reparation or restitution to any of the United Nations. With regard to taxes the proceeds of which accrue, in whole or in part, to the *Laender*, *Gemeinden* or *Gemeindeverbaende*, the Federal Government will enter into a separate arrangement having in mind the charitable purposes of these organizations and corporations.

## ARTICLE 6

1. There is hereby established a Supreme Restitution Court to succeed, under the legislation referred to in sub-paragraph (a) of Article 1 of this Chapter:



- (a) The Board of Review for the British Zone;
- (b) The United States Court of Restitution Appeals of the Allied High Commission for Germany for the United States Zone;
- (c) The Higher Court for Restitution (Cour Supérieure pour les Restitutions) for the French Zone.

The composition, jurisdiction, powers and duties of the Supreme Restitution Court shall be as prescribed by the Charter of the Supreme Restitution Court annexed to this Chapter.

2. Each Tribunal to which the Supreme Restitution Court succeeds shall within three months decide those cases in process of final disposition on the entry into force of the present Convention and shall refer to the Supreme Restitution Court all cases not decided at the end of that period. For the purposes of the present Convention, cases which a tribunal, on the entry into force of the present Convention, has not begun to investigate and consider judicially, or has investigated and considered judicially only in regard to matters of procedure, shall not be considered as cases which, on the entry into force of the present Convention, were in process of final disposition.

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### ANNEX TO CHAPTER THREE

#### CHAPTER OF THE SUPREME RESTITUTION COURT

##### ARTICLE 1

1. The Court shall consist of
  - (a) the President of the Court,
  - (b) the Presidential Council (Praesidium),
  - (c) three Divisions (Senate)
2. Each Division shall be composed of at least five justices, a Clerk and registry, with sufficient personnel to carry out its functions effectively.
3. State Counsel may be appointed to any of the Divisions in such manner as the Governments of the Three Powers and the Federal Government may decide. Paragraphs 3, 4 and 5 of Article 2 and paragraphs 1, 4, 5 and 6 of Article 3 of the present Charter shall apply *mutatis mutandis*.
4. A Division shall be dissolved when no further cases remain to be dealt with by it. The terms of office of all its justices shall thereupon terminate. The Court shall be dissolved on the same date as the last active Division is dissolved.
5. The seat of the Court shall be at Herford. The First Division of the Court shall have its seat at Rastatt, the Second Division at Herford and the Third Division at Nurenberg.
6. The Presidential Council may from time to time with the approval of the Governments of the Three Powers and the Federal Government determine
  - (a) a new seat for the Court or any of its Divisions,
  - (b) the number of justices required by any of the Divisions in addition to those appointed in accordance with Article 2,
  - (c) the date of dissolution of each of the Divisions,



(d) the establishment of administrative and other nonjudicial staff required by the Court or any of its Divisions, so far as this is not provided for in the present Charter.

7. Without prejudice to the provisions of paragraph 6, the Presidential Council shall render annual reports to the Governments of the Three Powers and the Federal Government setting forth its requirements for judicial and other personnel for the twelve months next following the date of the report. The first report shall be rendered between the fourteenth and seventeenth month after the entry into force of the present Charter.

## ARTICLE 2

1. The five justices referred to in paragraph 2 of Article 1 shall be appointed as follows:

(a) Two justices appointed by the Government of the French Republic in the case of the First Division; two by the Government of the United Kingdom in the case of the Second Division; and two by the Government of the United States in the case of the Third Division;

(b) Two justices appointed by the Federal Government;

(c) One justice who shall be neither a national of any of the Three Powers nor a German national, and who shall be appointed by agreement between the Government of the Power designated in sub-paragraph (a) of this paragraph to appoint justices to the Division concerned (hereinafter referred to as "the Power concerned") and the Federal Government, or failing such agreement, by the President of the International Court of Justice.

2. The Governments of the Three Powers and the Federal Government shall make known their first appointments pursuant to paragraph 1 of this Article not later than the date of entry into force of the present Charter. By the same date the Power concerned and the Federal Government shall agree upon the justice referred to in sub-paragraph (c) of paragraph 1. If he has not been appointed within one month after that date, either the Power concerned or the Federal Government may request the President of the International Court of Justice to appoint him. The provisions of the preceding sentence shall also apply if the Power concerned and the Federal Government fail to agree on the appointment of an additional justice who is not to be appointed unilaterally by the Power concerned or the Federal Government, within one month after approval of a decision of the Presidential Council under sub-paragraph (b) of paragraph 6 of Article 1 of the present Charter that such an additional justice is required.

3. The justices appointed by the Governments of the Three Powers shall be qualified in accordance with the legislation referred to in Article 1 of the foregoing Chapter. The justices appointed by the Federal Government shall be qualified for judicial office in a Land of the Federal Republic. The other justices shall have the qualifications required in the country of which they are nationals or residents for appointment to judicial office or equivalent qualifications.

4. The Presidential Council may declare a vacancy for a justice if, in its opinion, a justice has, without reasonable excuse, failed



(a) to attend a meeting for which he has been duly designated,  
or

(b) otherwise to perform his duties diligently.

5. The appointment to fill a vacancy created by the expiration of the term of office, death, resignation, or removal from office in accordance with the preceding paragraph of a justice shall be made in the same manner as his appointment within one month of the vacancy occurring.

### ARTICLE 3

1. Subject to the provisions of paragraph 4 of Article 1 of the present Charter, all justices shall be appointed in the first instance for a period of two years and their terms of office may be renewed thereafter for successive periods of one year. At least six months' notice in writing shall be given to a justice of intention not to renew his term of office. A justice appointed by the Government of one of the Three Powers shall be notified of such intention by the Power concerned, a justice appointed by the Federal Government shall be notified of such intention by it, and a justice appointed by the Government of one of the Three Powers and the Federal Government jointly or by the President of the International Court of Justice shall be notified of such intention by the Power concerned and the Federal Government. In the absence of notice, a justice shall continue in office for a period of one year.

2. Any justice may at any time resign his office. But he shall continue in office until his successor has taken office.

3. No justice may be dismissed from office, except in accordance with paragraph 4 or article 2 of the present Charter.

4. No justice shall be assigned to any non-judicial function, engage in any activity incompatible with the exercise of his duties, or participate in the adjudication of any claim with which he has been previously concerned in any capacity, except as a member of a tribunal to which the Court succeeds, or in which he has a direct interest. Differences of opinion regarding the applicability of this paragraph shall be resolved by the appropriate Division in accordance with Article 8 of the present Charter.

5. (a) Every justice shall, during his term of office, have the rank of an equivalent member of the Federal Supreme Court and shall, both during and after his term of office, enjoy immunity from suit in respect of acts performed by him in the exercise of his official duties.

(b) A justice who is not a German national shall, during his term of office, enjoy in the Federal territory the same privileges and immunities as are accorded members of diplomatic missions.

6. Each justice shall, before taking office, make a declaration at a public session that he will exercise his duties impartially and conscientiously.

### ARTICLE 4

1. Each Division shall be presided over by the justice appointed pursuant to sub-paragraph (c) of paragraph 1 of Article 2 of the present Charter. When he is unable to act, he shall be replaced by a deputy



designated by the Presidential Council from the justices not appointed unilaterally by the Power concerned or the Federal Government.

2. The presiding justice or his deputy shall preside at all sittings of his Division, shall fix the time of the sittings, shall determine how the business of the Division shall be divided between its justices and shall be generally responsible for its administration;

#### ARTICLE 5

1. The presiding justice of the First Division shall act as President of the Court for the remainder of the calendar month in which the present Charter enters into force and for the four full calendar months next following. Therefore, the presiding justice of each Division in his turn shall so act for four calendar months at a time.

2. The Presidential Council shall consist of the following nine persons:

(a) The President of the Court and the other two presiding justices of Divisions, or their respective deputies;

(b) A justice from each Division or his deputy designated by the Power concerned;

(c) A justice from each Division or his deputy designated by the Federal Government.

3. The Council shall decide by a majority vote of the nine members, except in cases arising under paragraph 4 of Article 2 of the present Charter, when a two-thirds majority shall be necessary.

4. The Council shall meet at the seat of the Court at such times as the President shall decide.

5. The Council shall be competent

(a) to consider, at the request of any of its members, questions which are of common interest to more than one Division and to inform the presiding justices of the Divisions accordingly;

(b) to decide concerning the interpretation or application of the present Charter, or concerning any other matters assigned to its competence by the present Charter;

(c) to exercise the following powers conferred by the legislation referred to in Article 1 of the foregoing Chapter;

(i) the power of the Principal Legal Adviser, under Article 5 of Regulation No. 6 under British Military Government Law No. 59, to approve rules of procedure; and

(ii) the powers of the United Kingdom High Commissioner, under paragraph 8 of Article 2 and paragraph 4 of Article 3 of Regulation No. 8, as amended by Regulation No. 11, under British Military Government Law No. 59, to approve rules of procedure; and, under his Ordinance No. 233, to approve agencies by notice.

6. The Presidential Council shall appoint the Court Clerks nominated under paragraph 1 of Article 6 of the present Charter, but they shall be directly and exclusively responsible to the presiding justices of the Divisions to which they are appointed. The Presidential Council may also appoint its own administrative staff, which shall be subject to the control of the President of the Court and may be nominated by the Federal Government if the Presidential Council so desires.

7. The Council may determine its own rules of procedure.



## ARTICLE 6

1. The Court Clerks shall be nominated as follows:
  - (a) The Clerk of the First Division, by Government of the French Republic;
  - (b) The Clerk of the Second Division, by the Government of the United Kingdom;
  - (c) The Clerk of the Third Division, by the Government of the United States.
2. Each Court Clerk shall have the same powers and duties as the Clerk or Secretary of the tribunal to which his Division succeeds and such additional duties as shall be assigned to him by the presiding justice of that Division.
3. Paragraphs 3, 4 and 5 of Article 2 and paragraphs 4 and 5 of Article 3 of the present Charter shall apply *mutatis mutandis* to the Court Clerks.

## ARTICLE 7

1. The Federal Republic shall maintain at its own cost and expense the existing facilities and accommodations in use by the tribunals to which the Court succeeds and shall provide such additional facilities and accommodations as the Court may, according to a decision of the Presidential Council, from time to time require.
2. (a) The salaries and allowances of the judicial, administrative and other staff of the Court which is nominated, appointed, or employed by the Government of any of the Three Powers shall be fixed and paid by that Power in consultation with the Federal Government. Such salaries and allowances shall be reimbursed to that Power by the Federal Republic.
  - (b) The salaries and allowances of the judicial, administrative and other staff which are nominated, appointed or employed by the Federal Government shall be fixed by the Federal Government, in consultation with the Power concerned, and paid by the Federal Republic.
  - (c) The salaries and allowances of justices who are not appointed unilaterally by the Power concerned or the Federal Government shall be fixed by agreement between the Governments of the Three Powers and the Federal Government and paid by the Federal Republic.
3. All persons referred to in sub-paragraphs (a) and (b) of paragraph 2 of this Article shall be subject to the administrative and disciplinary control of the appointing, nominating or employing Government, so far as such a control is not inconsistent with the present Charter.

## ARTICLE 8

1. All matters shall be adjudicated by five justices of the appropriate division, of whom one shall be the President or his deputy, two shall be justices appointed by the Power concerned, and two shall be justices appointed by the Federal Government.
2. Decisions of the Division shall be given by majority vote and shall be final subject only to the provisions of paragraph 3 of Article 9 of the present Charter.



3. The public shall be admitted to all formal hearings (muendliche Verhandlungen).

4. The deliberations of the Presidential Council and of the Divisions shall be secret.

#### ARTICLE 9

1. The Court shall exercise powers and jurisdiction through its Divisions as follows:

(a) The First Division shall exercise the powers and jurisdiction of the Higher Restitution Court established by Ordinance No. 252 of the French High Commissioner;

(b) The Second Division shall exercise the powers and jurisdiction of the Board of Review established by Regulation No. 6 under British Military Government Law No. 59;

(c) The Third Division shall exercise the powers and jurisdiction of the Court of Restitution Appeals established by Law No. 21 (as amended) of the United States High Commissioner.

2. The legislation referred to in Article 1 of the foregoing Chapter shall accordingly be construed and applied by substituting the First Division for the Higher Restitution Court in legislation applicable in the French Zone, the Second Division for the Board of Review in legislation applicable in the British Zone, and the Third Division for the Court of Restitution Appeals in legislation applicable in the United States Zone.

3. Decisions of the Arbitration Tribunal pursuant to paragraph 2 of Article 9 of the Charter of the Arbitration Tribunal referred to in Article 9 of the Convention on Relations between the Three Powers and the Federal Republic of Germany and the provisions of Article 10 of that Charter shall be binding on the Court and on all German courts and authorities, so far as those decisions and provisions concern the extent of the jurisdiction of the Court.

#### ARTICLE 10

1. The official languages of the Presidential Council shall be French, English and German.

2. Otherwise, the official languages of the Court shall be,

(a) for the First Division, French and German;

(b) for the Second and Third Divisions, English and German.

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#### CHAPTER FOUR—COMPENSATION FOR VICTIMS OF NAZI PERSECUTION

1. The Federal Republic acknowledges the obligation to assure in accordance with the provisions of paragraphs 2 and 3 of this Chapter adequate compensation to persons persecuted for their political convictions, race, faith or ideology, who thereby have suffered damage to life, limb, health, liberty, property, their possessions or economic prospects (excluding identifiable property subject to restitution). Furthermore, persons persecuted by reason of nationality, in disregard of human rights, who are now political refugees and no longer enjoy the protection of their former home country shall receive adequate compensation where permanent injury has been inflicted on their health.

2. In the discharge of this obligation, the Federal Republic undertakes

(a) that legislation in this field in the Federal territory shall in the future be not less favourable to claimants than the legislation now in force;

(b) that, furthermore, there shall be enacted expeditiously legislation supplementing and amending the legislation now in force in the various Laender which shall, subject to the provisions of sub-paragraph (a) of this paragraph, afford a basis throughout the Federal territory for compensation no less favourable than is afforded in the legislation now in force in the Laender of the United States Zone;



(c) that the legislation referred to in sub-paragraph (b) of this paragraph shall adequately take into account the special conditions arising from the persecution itself, including the loss and destruction of records and documents resulting from the conditions of the persecution or the acts of the persecuting agencies and the death or disappearance of witnesses and of persecuted persons as a result of the persecution;

(d) that the effective and expeditious processing, determination and satisfaction of claims for compensation in this field shall be assured without discrimination against any groups or classes of persecuted persons;

(e) that in all cases where a claim for compensation submitted to the competent authorities has been disallowed under the legislation then in force, but where such a claim would be admissible under supplementary or replacement legislation enacted in accordance with sub-paragraph (b) of this paragraph, the persecuted person shall be assured the possibility of submitting again his claim in spite of the previous rejection thereof;

(f) that the provision of funds adequate to meet all claims under the legislation referred to in sub-paragraphs (a) and (b) of this paragraph shall be ensured by the Federal Republic in accordance with paragraph 3 of this Chapter.

3. The capacity to pay of the Federal Republic may be taken into consideration in determining the time and method of compensation payments under paragraph 1 of this Chapter and in providing adequate funds under sub-paragraph (f) of paragraph 2.

4. The Federal Republic undertakes

(a) insofar as non-German nationals or non-residents of the Federal territory are involved, to afford adequate opportunities to the Three Powers or their authorized agents for the observation of all matters dealt with in this Chapter; and

(b) to preserve intact for a period equal to the period prescribed by German law for the preservation of judicial records, and running from the entry into force of the present Convention, all records then existing of judicial or administrative proceedings and other official activities relating to the matters referred to in this Chapter; and to preserve intact all such records made after the entry into force of the present Convention for such period from the making of such records. The said period shall be curtailed only if the Three Powers shall expressly so consent.

## CHAPTER FIVE—EXTERNAL RESTITUTION

### ARTICLE 1

1. Upon the entry into force of the present Convention, the Federal Republic shall establish, staff and equip an administrative agency which shall, as provided in this Chapter and the Annex thereto, search for, recover and restitute jewellery, silverware and antique furniture (where individual articles are of substantial value), and cultural property, if such articles or cultural property were, during the occupation of any territory, removed therefrom by the forces or authorities of Germany or its Allies or their individual members (whether



or not pursuant to orders) after acquisition by duress (with or without violence), by larceny, by requisitioning or by other forms of dispossession by force.

2. In the case of cultural property which was present in the country concerned prior to the date applicable to that country, as specified in Article 5 of this Chapter, restitution shall also be made

(a) if it was acquired by way of gift made under direct or indirect pressure or in consideration of the official position of the recipient;

(b) if it was acquired by way of purchase, unless it had been brought into the country concerned for the purpose of sale.

3. In the case of jewellery, silverware or antique furniture, restitution may be denied if it is established that the property concerned was removed after acquisition from the original owner for value by way of a regular commercial transaction, even if payment was made in occupation currency.

4. The term "cultural property" shall comprise movable goods of religious, artistic, documentary, scholarly or historic value, or of equivalent importance, including objects customarily found in museums, public or private collections, libraries or historic archives. The term "antique" shall mean property which upon the entry into force of the present Convention is one hundred or more years old. The term "substantial value" shall mean a value of not less than 200,000 French francs at the 1 January 1951 purchasing power.

5. The agency referred to in paragraph 1 of this Article will give information on matters dealt with by it to the Three Powers or their representatives on request and submit quarterly reports on its activity. The records of the agency shall be preserved until otherwise agreed.

## ARTICLE 2

1. Restitution pursuant to Article 1 of this Chapter may be requested from the Federal Government only by the Government of the State from the territory of which the property was removed. The Federal Government may reject a restitution request if such request has already been rejected as not well founded by the appropriate agency of one of the Three Powers, except in a case where evidence which could not previously be presented is adduced.

2. Restitution of jewellery, silverware or antique furniture may only be claimed from the Federal Government if a pertinent request has been lodged with an agency of any of the Three Powers prior to the entry into force of the present Convention. In the case of cultural property, no new claim for restitution may be filed after 8 May 1955. Where, in any particular case, the investigations of the German agency referred to in Article 1 of this Chapter with respect to claimed property have been unsuccessful or where they have not led to the discovery of the claimed property by 8 May 1956, and where further investigations are unlikely to be successful, the agency shall discontinue the proceedings. Such a decision may be appealed from by the party concerned to the Arbitral Commission on Property, Rights and Interests in Germany pursuant to Article 7. If, after such discontinuance, the claimed property is identified, the restitution proceedings may be reopened.



3. Claims filed with an agency of any of the Three Powers and not finally disposed of prior to the entry into force of the present Convention and falling within the scope of the provisions of Article 1 of this Chapter and this Article shall be referred by the Power concerned to the German agency referred to in Article 1. They shall be acted upon by the German agency as though filed directly with it by the claimant Government.

4. Submission of a claim for restitution pursuant to Article 1 of this Chapter on behalf of any person or entity shall preclude such submission pursuant to Article 3; likewise, action for restitution pursuant to Article 3 shall preclude submission of a claim for restitution pursuant to Article 1.

#### ARTICLE 3

1. Notwithstanding provisions of German law to the contrary, any person who, or whose predecessor in title, during the occupation of a territory, has been dispossessed of his property by larceny or by duress (with or without violence) by the forces or authorities of Germany or its Allies, or their individual members (whether or not pursuant to orders), shall have a claim against the present possessor of such property for its restitution, subject, however, to:

(a) Reimbursement by the claimant to the defendant for expenditures, which have enhanced the value of the property, made after its acquisition;

(b) Payment by the claimant of the value of any consideration received by him or his predecessor in title, which shall be treated in the same manner as German assets existing at the date of removal in the country from which the property was removed.

No such claim shall exist if the present possessor has possessed the property bona fide for ten years or until 8 May 1955, whichever is later.

2. Any claim to restitution pursuant to paragraph 1 of this Article may be brought before a German court on or before 8 May 1955 or before the expiration of ten years during which the possessor possessed the property bona fide, whichever is later, by any national or resident of a State which has acceded to the Charter of the Arbitral Commission on Property, Rights and Interests in Germany.

3. No restitution claim may be asserted, if, prior to the entry into force of the present Convention, a request by a Government on behalf of the claimant for restitution of the property concerned was rejected as not well founded by an agency of one of the Three Powers, except in a case where evidence which could not previously be presented is adduced.

#### ARTICLE 4

1. If property to be restituted has, after identification in Germany, either been utilized or consumed in Germany before return to the claimant or been destroyed, stolen or otherwise disposed of before receipt by the claimant Government or by an appropriate agency of one of the Three Powers for despatch to the claimant, the Federal Republic shall compensate claimants who would otherwise be entitled to restitution under Article 1 or 3 of this Chapter, or who, at the



entry into force of the present Convention, have had their claims for restitution approved by one of the Three Powers.

2. The German agency referred to in Article 1 of this Chapter shall, upon application by the claimant otherwise entitled to restitution, render a decision on the compensation claim in respect of property the restitution of which could have been requested under Articles 1 and 2. The court stipulated in Article 3 shall, upon suit brought by the claimant otherwise entitled to restitution, render a decision on the compensation claim in respect of property the restitution of which could have been requested under Article 3, provided that the plaintiff is a national or a resident of a State which has acceded to the Charter of the Arbitral Commission on Property Rights and Interests in Germany. The filing of the application and the bringing of the suit must take place not later than one year after the entry into force of the present Convention or one year after notification to the claimant that the property is not available for restitution, whichever is later.

2. Notwithstanding the provisions of paragraph 2 of this Article, claims falling within the scope of paragraph 1 filed with an agency of any of the Three Powers before the entry into force of the present Convention may either be referred by that Power to the German agency referred to in Article 1 of this Chapter or be filed with that agency by the claimant Government. All claims under this paragraph shall be referred to or filed with the agency not later than six months after the entry into force of the present Convention and shall be decided by it.

4. The German agency referred to in Article 1 of this Chapter shall recognize claims for restitution which have been approved by any of the Three Powers prior to the entry into force of the present Convention. The agency shall also accept as conclusive a certificate by any one of the Three Powers that the property which was the subject of the claim had not been received by an appropriate agency of that Power for despatch to the claimant.

5. Compensation pursuant to this Article shall be awarded in the amount of the replacement value of the property concerned as of the date of the award.

ARTICLE 5

1. The provisions of this Chapter shall apply in respect to the following countries as of the respective date set forth below:

<i>Country</i>	<i>Date</i>	<i>Country</i>	<i>Date</i>
Austria_____	12 March 1938	Greece_____	28 October 1940
Czechoslovakia_____	1 April 1939	Yugoslavia_____	6 April 1941
Poland_____	1 September 1939	Union of Soviet	
Denmark_____	9 April 1940	Socialist Republics_____	22 June 1941
Norway_____	9 April 1940	Italy_____	3 September 1943
Belgium_____	10 May 1940	Rumania_____	12 September 1944
Luxembourg_____	10 May 1940	Finland_____	19 September 1944
Netherlands_____	10 May 1940	Bulgaria_____	28 October 1944
France_____	17 May 1940	Hungary_____	20 January 1945

2. The provisions of this Chapter shall cover public and private property which was removed from territories referred to in paragraph 1 of this Article.



## ARTICLE 6

If the Federal Republic concludes with any other Power, on matters within the scope of this Chapter, arrangements more favourable to such other Power than the corresponding provisions of this Chapter, the benefits of such new arrangements shall automatically be extended to all powers benefiting from those provisions.

## ARTICLE 7

1. The Signatory States hereby establish an Arbitral Commission on Property, Rights and Interests in Germany, which shall function in accordance with the provisions of its Charter annexed to the present Convention.

2. Upon application of the party concerned, any final decision (*Endentscheidung*) by the German agency pursuant to Article 1, 2 or 4 of this Chapter, or by a German court pursuant to Article 3 or 4, shall be subject to review by the Arbitral Commission on Property, Rights and Interests in Germany.

3. Application to the Commission shall be submitted by the party concerned within thirty days after service of such decision. If the German agency or the German court does not render a decision within one year after submission of the claim, the claimant may submit his claim directly to the Commission within thirty days following the expiration of the one year period.

4. In any case submitted to it, the Commission may itself render a final decision in regard to such case or may remand it to the German agency or to the German court with such instructions as the Commission deems necessary or appropriate.

5. The judgments of the Commission shall be final and binding on the authorities and courts of the Signatory States and other States acceding to its Charter.

\* \* \*

## ANNEX TO CHAPTER FIVE

## SECTION 1

1. The Federal Government shall establish the administrative agency provided for in paragraph 1 of Article 1 of the foregoing Chapter as a Federal Higher Authority (*Bundesoberbehörde*).

2. All German courts and authorities shall render the Federal Higher Authority legal and other official assistance pursuant to Article 35 of the Basic Law.

## SECTION 2

1. Applications for restitution pursuant to Articles 1 and 2 of the foregoing Chapter, with the exception of those specified in paragraph 3 of Article 2, shall include

(a) a description of the property restitution of which is demanded;

(b) when possible, identification of the person possessing such property at the time of filing of the application;

(c) a description of the facts on which the restitution claim is based.



2. Certified copies of the documents supporting the restitution claim shall be attached to the application or shall be subsequently submitted.

#### SECTION 3

1. Applications for compensation pursuant to Article 4 of the foregoing Chapter, with the exception of those specified in paragraph 3 of that Article, shall include

(a) a description of the property in respect of which compensation is demanded;

(b) information relating to the identification in Germany of such property;

(c) information relating to the utilization, consumption, destruction, theft or disposal of such property;

(d) notice of the amount claimed;

(e) information concerning any other matters on which the claim is based.

2. Certified copies of the documents supporting the compensation claim shall be attached to the application or shall be subsequently submitted.

#### SECTION 4

Proceedings before the Federal Higher Authority shall be free of charge.

#### SECTION 5

1. The Federal Higher Authority shall conduct the necessary investigations. For this purpose it may on its own motion (von Amts wegen) take evidence by accelerated procedure; in particular, it may hear witnesses, experts and the persons whose rights are affected by the restitution or cause their hearing before a court. Where a hearing under oath appears necessary, such oath shall be sworn before a court. The Federal Higher Authority shall be authorized to accept statements in lieu of oaths (eidesstattliche Versicherungen).

2. In addition to the applying Government, all persons shall be considered parties concerned whose rights would be affected by the restitution.

3. The parties concerned shall be afforded an opportunity to state their views. They may be represented by agent or counsel. They shall be notified of the dates of the hearings ordered for the purpose of interrogations pursuant to the second sentence of paragraph 1 of this Section and may attend these hearings. The documents filed by a party concerned shall be transmitted to the other parties.

#### SECTION 6

Where realization of the restitution claim appears to be endangered, the Federal Higher Authority shall order the necessary interim measures to be taken for safeguarding the property.



## SECTION 7

Decisions of the Federal Higher Authority shall state in writing the reasons on which they are based and shall be served upon the parties concerned.

## SECTION 8

1. The Federal Higher Authority shall take all measures required for the restitution. Where necessary the Federal Higher Authority shall order that property to be restituted shall be expropriated in favour of the Federal Republic, which will forward (zuleiten) it to the restitution claimant.

2. The nature and amount of the compensation to persons affected by the expropriation shall be fixed by Federal law.

3. Where the Federal Higher Authority allows a claim under Article 4 of the foregoing chapter, it shall fix the amount of the compensation to be paid by the Federal Republic.

\* \* \*

## CHAPTER SIX—REPARATION

## ARTICLE 1

1. The problem of reparation shall be settled by the peace treaty between Germany and its former enemies or by earlier agreements concerning this matter. The Three Powers undertake that they will at no time assert any claim for reparation against the current production of the Federal Republic.

2. Pending the final settlement envisaged in paragraph 1 of this Article, the following provisions shall apply.

## ARTICLE 2

Control Council Law No. 5 is deprived of effect in the Federal territory, except in respect of the countries listed in the Schedule to Allied High Commission Law No. 63, but shall not be further deprived of effect or amended without the consent of the Three Powers. The Federal Republic will not repeal or amend Law No. 63 except with the consent of the Three Powers. However, paragraph 1 of Article 6 of Law No. 63 shall be deemed to be repealed and paragraph 2 to be amended to provide that the powers therein conferred upon the Allied High Commission may be exercised by the Federal Government. The Federal Republic undertakes that appropriate decisions under Article 6 of Law No. 63, as so amended, removing the countries from the list in the Schedule thereto shall be issued after the Three Powers have consented.

## ARTICLE 3

1. The Federal Republic shall in the future raise no objections against the measures which have been, or will be, carried out with regard to German external assets or other property, seized for the purpose of reparation or restitution, or as a result of the state of war,



or on the basis of agreements concluded, or to be concluded, by the Three Powers with other Allied countries, neutral countries or former allies of Germany.

2. The Federal Republic shall abide by such provisions regulating German external assets in Austria as are set forth in any agreement to which the Powers now in occupation of Austria are parties or as may be contained in the future State Treaty with Austria.

No. 3 No claim or action shall be admissible against persons who shall have acquired or transferred title to property on the basis of the measures referred to in paragraph 1 and 2 of this Article, or against international organizations, foreign governments or persons who have acted upon instructions of such organizations or governments.

#### ARTICLE 4

1. Where German external assets have not been transferred or liquidated, or where no disposition has been made in respect of the proceeds of their liquidation, the Federal Republic may negotiate agreements regarding them with all countries which have been at war with Germany since 1 September 1939 but are not members of the Inter-Allied Reparation Agency (IARA).

2. Moreover, the Federal Republic may negotiate agreements with the member countries of IARA, provided such agreements relate only to

(a) property of the types which member countries of the IARA may, under Part III of the IARA accounting rules, voluntarily exclude from the charge to be made under Part II of the rules;

(b) securities of German issue expressed in Reichsmarks;

(c) pensions;

(d) a final date for sequestration of German property in countries in which such a date has not yet been determined.

3. Regarding property taken as German assets in Portugal, Spain, Sweden, and Switzerland, with respect to which agreements concluded by the Three Powers are, or will be, in force, the Federal Republic may negotiate with those countries arrangements in implementation of such agreements concerning the nature and amount of compensation to be paid to former German owners of assets in those countries. The Three Powers shall have the right to participate in such negotiations.

4. Apart from the questions referred to in the preceding paragraphs of this Article, the Federal Republic may, after due notification to the Three Powers, negotiate with any country agreements on other questions concerning German external assets unless the Three Powers specifically object thereto.

#### ARTICLE 5

The Federal Republic shall ensure that the former owners of property seized pursuant to the measures referred to in Articles 2 and 3 of this Chapter shall be compensated.



## CHAPTER SEVEN—DISPLACED PERSONS AND REFUGEES

## ARTICLE 1

The Federal Republic undertakes

(a) to implement the Federal Law on the Legal Status of Homeless Foreigners (heimatlose Ausländer) in the Federal Territory of 25 April 1951 (Bundesgesetzblatt Teil I Seite 269);

(b) to ratify the United Nations Convention on the International Status of Refugees;

(c) to provide, by enacting appropriate legislation, for the admission and distribution of foreign nationals and stateless persons who, being political refugees, seek asylum in the Federal territory;

(d) to assure the continuance of the operations presently carried out by the International Tracing Service;

(e) to assume the proper care and maintenance of the graves of Allied civilian war victims (unless otherwise provided for by the nations concerned), displaced persons and non-German refugees in the Federal territory and to facilitate pilgrimages by relatives to these graves;

(f) to afford to the authorities of the Three Powers and other Allied nations concerned the same facilities as they now enjoy for the exhumation and removal of bodies of war victims.

## ARTICLE 2

The Federal Republic will see to the proper care and maintenance of the graves of Allied soldiers in the Federal territory, unless otherwise provided for by the nations concerned or by organizations of such nations serving that purpose, and will facilitate the work of such organizations. Each of the Three Powers will see to the proper care and maintenance of the graves of German soldiers in its metropolitan territory and will facilitate the activities of organizations serving that purpose.

## ARTICLE 3

The Federal Republic may replace Allied High Commission Law No. 23 on the Legal Position of Displaced Persons and Refugees by legislation enacted by it. Until such replacement Law No. 23, as amended by Law No. 48, shall be maintained in force.

## ARTICLE 4

The Three Powers declare themselves willing to conduct, when the necessity arises, negotiations concerning the transfer of refugees to the Federal territory with the Governments of those countries in which the Federal Republic has no diplomatic representation.

## ARTICLE 5

In view of the continuing interest of the Three Powers in the matters dealt with in this Chapter, the Federal Republic undertakes to furnish to them or their authorized agents copies of any reports or statistical



information on these matters which may be furnished by the Federal Republic to the United Nations High Commissioner for Refugees or his representatives, and any supplementary information which the Three Powers or any of them may reasonably request.

## CHAPTER EIGHT—CLAIMS AGAINST GERMANY

### ARTICLE 1

The Federal Republic reaffirms the agreement on the settlement of German external debts contained in the exchange of letters of 6 March 1951, copies of which are annexed hereto, between the Federal Chancellor of the Federal Republic of Germany and the Allied High Commissioners, acting on behalf of their Governments, and will continue to participate in the orderly settlement of those debts in accordance with that agreement.

### ARTICLE 2

Pursuant to the undertaking given in Article 1 of this Chapter, the Federal Republic shall not, except in accordance with a treaty or international agreement to which the Three Powers are parties providing for the orderly settlement of German external debts, or except with the agreement of the Three Powers, take any legislative or administrative measures which conflict with the substantive provisions of Allied laws, ordinances, directives and general licenses, including general licenses issued by the Bank deutscher Laender with the approval of the Allied authorities, in effect at the entry into force of the present Convention, which govern

(a) the acquisition and disposition of property and monetary or other assets in the currency area of the Deutsche Mark West, other than in the course of current foreign trade transactions, by foreign nationals and by persons residing outside the currency area of the Deutsche Mark West, and the transfer abroad of capital, interest and dividends; and

(b) the settlement, assignment and transfer abroad of claims against Germany or against German debtors of foreign nationals and persons residing outside the currency area of the Deutsche Mark West, including the maintenance and safeguarding of securities or other property earmarked as collateral security for such claims.

\* \* \*



## ANNEX TO CHAPTER EIGHT

## EXCHANGE OF LETTERS OF 6 MARCH 1951

*Letter to the Allied High Commission from the Federal Chancellor of  
the Federal Republic of Germany*

BONN, 6 March 1951

His Excellency  
The Chairman of the Allied High Commission  
Ambassador ANDRÉ FRANÇOIS-PONCET

*Bonn-Petersberg*

MR. HIGH COMMISSIONER,

In reply to your letter of 23 October 1950—AGSEC(5O)2339—I have the honour to inform you as follows:—

## I.

The Federal Republic hereby confirms that it is liable for the pre-war external debt of the German Reich, including those debts of other corporate bodies subsequently to be declared liabilities of the Reich, as well as for interest and other charges on securities of the Government of Austria to the extent that such interest and charges become due after 12 March 1938 and before 8 May 1945.

The Federal Government understands that in the determination of the manner in which and the extent to which the Federal Republic will fulfil this liability, account will be taken of the general situation of the Federal Republic including, in particular, the effects of the limitations on its territorial jurisdiction and its capacity to pay.

## II.

The Federal Government acknowledges hereby in principle the debt arising from the economic assistance furnished to Germany since 8 May 1945, to the extent to which liability for such debt has not previously been acknowledged in the Agreement on Economic Cooperation concluded on 15 December 1949 between the Federal Republic and the United States of America, or for which the Federal Republic has not already taken over responsibility under Article 133 of the Basic Law. The Federal Government is ready to accord the obligations arising from the economic assistance priority over all other foreign claims against Germany or German nationals.

The Federal Government regards it as appropriate to regulate any questions connected with the recognition and settlement of these debts by bilateral agreements with the Governments of the countries which have rendered economic assistance, patterned on the Agreement concluded with the United States of America on 15 December 1949. The Federal Government takes for granted that these agreements will contain an arbitration clause for cases of dispute. The Federal Government is prepared at once to enter into negotiations for the conclusion of such agreements with the Governments concerned.



## III.

The Federal Government hereby expresses its desire to resume payments on the German external debt. It understands that there is agreement between it and the Governments of France, the United Kingdom of Great Britain and Northern Ireland and of the United States of America on the following:—

It is in the interest of the reestablishment of normal economic relations between the Federal Republic and other countries to work out as soon as possible a settlement plan which will govern the settlement of public and private claims against Germany and German nationals.

Interested Governments including the Federal Republic, creditors and debtors, shall participate in working out this plan.

The settlement plan shall in particular deal with those claims, the settlement of which would achieve the objective of normalising the economic and financial relations of the Federal Republic with other countries. It will take into account the general economic position of the Federal Republic, notably the increase of its burdens and the reduction of its economic wealth. The general effect of this plan shall neither dislocate the German economy through undesirable effects on the internal financial situation nor unduly drain existing or potential German foreign-exchange resources. It shall also not add appreciably to the financial burden of any Occupation Power.

The governments concerned may obtain expert opinions on all questions arising out of the negotiations on the settlement plan and on the capacity to pay.

The result of the agreements shall be set forth in agreements.

It is agreed that the plan will be provisional in nature and subject to revision as soon as Germany is reunited and a final peace settlement becomes possible.

I beg your Excellency to accept the assurance of my highest esteem.

(Signed) ADENAUER

*Reply to the Federal Chancellor of the Federal Republic of Germany from the Allied High Commissioners, acting on behalf of their Governments*

BONN-PETERSBERG, 6 March 1951

His Excellency,  
The CHANCELLOR OF THE  
FEDERAL REPUBLIC OF GERMANY.

Mr. CHANCELLOR,

In reply to your letter of 6 March, 1951, on the subject of German indebtedness we have the honour, on behalf of the Governments of France, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, to acknowledge the undertakings of the Federal Government in regard to the responsibility of the Federal Republic for the pre-war external debts of the German Reich and for the debt arising out of the economic assistance furnished to Germany by the three Governments since 8 May 1945.



With regard to the priority accorded to the obligations arising from the post-war economic assistance we are authorised to state that the three Governments would not propose to exercise this priority in such a way as to restrict settlement of foreign-held claims arising out of trade subsequent to 8 May, 1945, essential to the economic recovery of the Federal Republic.

With regard to the question of an arbitration clause in agreements covering the debts for post-war economic assistance, the three Governments will be prepared, when negotiating such agreements to consider whether it would be useful to include an arbitration clause to deal with any matters which might be appropriately settled by such a procedure.

We further have the honour on behalf of the three Governments to confirm the understandings of the Federal Government as set forth in the second paragraph of Article I and in Article III of your Excellency's letter. They are now engaged in preparing proposals for the working out of settlement arrangements; these will provide for the participation of foreign creditors, German debtors, and interested Governments including the Federal Government. The proposals will be designed to arrive at an orderly overall settlement of pre-war claims against Germany and German debtors and of the debt arising out of the post-war economic assistance, which would be fair and equitable to all the interests affected, including those of the Federal Government. It is the intention that the resulting settlement should be designed to arrive at an orderly overall settlement of pre-war claims against Germany and German debtors and of the debt arising framework of the settlement plan. As soon as their proposals are ready the three Governments will communicate them to the Federal Government and to other interested Governments and will discuss with them these proposals and the procedure to be adopted for dealing with the subject.

We have the honour to state that our three Governments regard your Excellency's letter under reference and this letter as placing on record an agreement between the Governments of France, the United Kingdom of Great Britain and Northern Ireland, and the United States of America on the one hand, and the Government of the Federal Republic on the other, concerning the questions of German indebtedness covered in these letters. These letters are prepared in English, French and German, each text being equally authentic.

Accept, Mr. Chancellor, the renewed assurances of our highest esteem.

For the Government of the United States of America :

(Signed) JOHN J. McCLOY

For the Government of the United Kingdom :

(Signed) IVONE KIRKPATRICK

For the Government of the French Republic :

(Signed) A. FRANCOIS-PONCET

\* \* \*



## CHAPTER NINE—CLAIMS AGAINST FOREIGN NATIONS OR NATIONALS

## ARTICLE 1

Without prejudice to the terms of a peace settlement with Germany, German nationals who are subject to the jurisdiction of the Federal Republic shall not assert against countries which have signed or acceded to the United Nations Declaration of 1 January 1942, or have been at war with Germany, or are specified in Article 5 of Chapter Five of the present Convention, or against the nationals of such countries, claims of any description arising out of actions taken or authorized by the Governments of these countries between 1 September 1939 and 5 June 1945 because of the existence of a state of war in Europe, nor shall such claims be asserted in any court of the Federal Republic by any person.

## ARTICLE 2

Without prejudice to the terms of a peace settlement with Germany, the Federal Republic confirms that no governmental claims on behalf of Germany arising out of actions taken or authorized by the Governments of the countries referred to in Article 1 of this Chapter between 1 September 1939 and 5 June 1945 because of the existence of a state of war in Europe may be asserted prior to the negotiation of the peace settlement.

## ARTICLE 3

1. The provisions of this Article are applicable during the period until the entry into force of a peace settlement with Germany.

2. The Federal Republic recognizes that no claims of any kind arising out of acts or omissions of the Three Powers or any one of them, or of organizations or persons who have acted on their behalf or under their authority, which took place in respect of Germany, Germany nationals or Germany property, or in Germany, between 5 June 1945 and the entry into force of the present Convention, may be asserted by the Federal Republic or by persons subject to its jurisdiction against the Three Powers or any one of them or against organizations or persons who have acted on their behalf or under their authority.

3. The Federal Republic assumes responsibility for the decision and satisfaction of claims for compensation for occupation damages which were sustained between 1 August 1945 and the entry into force of the present Convention and for which compensation is payable under the provisions of Allied High Commission Law No. 47. The Federal Republic will determine which of the other claims referred to in paragraph 2 of this Article, insofar as they arose in the Federal territory, should appropriately be satisfied and will take such measures as are necessary for the determination and satisfaction of such claims.

4. The provisions of this Article shall not apply to claims arising under contracts providing for payments from national funds of any of the Three Powers.

5. The Federal Government shall carry out all decisions taken with regard to claims specified in paragraph 3 of this Article by the authorities of the Three Powers or any one of them before the entry into



force of the present Convention unless such decisions have already been carried out.

#### ARTICLE 4

1. Pursuant to the terms of the agreement embodied in the exchange of letters between the Chairman of the Allied High Commission and the Federal Chancellor of the Federal Republic of Germany of 19 and 21 May 1952, assets of the Joint-Export-Import Agency have been or will be transferred to the Federal Republic, and the Federal Republic has undertaken certain obligations.

2. The Federal Republic confirms its undertaking in accordance with such exchange of letters to indemnify the Three Powers and each of them with respect to all liabilities, either now existing or hereafter arising, in connection with the operations of the Joint Export-Import Agency or any agency whose functions were taken over by it or in connection with other foreign trade or foreign exchange operations conducted by the Three Powers or any of them and referred to in the exchange of letters.

3. The provisions of the exchange of letters referred to in paragraph 1 of this Article shall be subject, in the event of a dispute arising after the date of the exchange, to the jurisdiction of the Arbitration Tribunal in the same manner as the present Convention.

### CHAPTER TEN—FOREIGN INTERESTS IN GERMANY

#### ARTICLE 1

1. Insofar as this has not already been done, the Federal Republic will take all steps necessary to ensure that the nations, persons and companies referred to in paragraph 3 of this Article shall be able to secure the return of their property in its present condition, and the restoration of their rights and interests, in the Federal territory to the extent to which such property, rights or interests suffered discriminatory treatment. The property, rights and interests of the nations, persons and companies referred to in paragraph 3 shall be freed by the Federal Republic from all encumbrances and charges of any kind to which they may have become subject as a result of discriminatory treatment. No costs shall be imposed either in connection with the return or restoration or with the removal of encumbrances or charges. Equitable conditions may, however, be imposed to prevent the unjust enrichment of any nation, person or company referred to in paragraph 3.

2. On the entry into force of the present Convention, the Federal Republic shall establish, and give adequate publicity to, the procedure described in the Annex to this Chapter for the filing and consideration of claims based on the provisions of this Article and for the satisfaction of awards based on such claims. Such claims shall be filed within twelve months from the establishment of such procedure. The Federal Republic shall also make available, so far as possible, all information concerning the administration by custodians of property, rights or interests to any interested party who may request it.

3. The following shall be entitled to claim under the provisions of this Article:

(a) United Nations and their nationals,



(b) the successors of such nationals, and

(c) companies organized under German law in which the United Nations nationals own participation,

provided that such nationals or, except in the case of direct successors by inheritance or testamentary disposition, their successors were United Nations nationals at the date of the discriminatory treatment.

4. The term "discriminatory treatment" as used in this Article shall mean action of all kinds applied between 1 September 1939 and 8 May 1945 to any property, rights or interests, as a result of any exceptional measures which were not applicable generally to all non-German property, rights or interests, and giving rise to prejudice, deprivation or impairment without the free consent of the interested parties and without adequate compensation. Anything done or omitted under the German Ordinance on the Treatment of Enemy Properties of 15 January 1940 or any amendment thereto, or any other regulations having a similar purpose, may be held to amount to discriminatory treatment, even though within the scope of such Ordinance, amendments or regulations, where it appears that

(a) injury to foreign property, rights or interests resulted therefrom; and

(b) the injury inflicted could have been avoided without infringing such Ordinance, amendments or regulations.

5. The provisions of this Article are not applicable to claims which are dealt with under Chapters Three and Four of the present Convention.

6. The provisions of this Article are not intended to cover compensation for loss or damage to property, rights or interests due to discriminatory treatment or resulting indirectly or directly from the war by any other means, but shall not affect the right of any of the United Nations to advance during negotiation for a peace settlement any claim for compensation of this nature with respect to its own or its nationals' property, rights or interests.

## ARTICLE 2

Insofar as they affect foreign creditors of German debtors, the Federal laws on periods of limitation (including preclusion and prescription) of 28 December 1950 and 30 March 1951 (*Gesetz ueber den Ablauf der durch Kriegs- oder Nachkriegsvorschriften gehemmten Fristen und Gesetz zur Ergaenzung des Gesetzes ueber den Ablauf der durch Kriegs- oder Nachkriegsvorschriften gehemmten Fristen* (Bundesgesetzblatt Teil I (1950) Seite 821 und (1951) Seite 213), together with Allied High Commission Law No. 67 on the same subject, shall be maintained in force. The provisions of this Article shall be subject to review after the conclusion of a treaty or international agreement to which the Three Powers are parties providing for the orderly settlement of German external debts, insofar as these provisions involve claims dealt with in such a treaty or agreement.

## ARTICLE 3

Without prejudice to the terms of the final peace settlement with Germany, the United Nations and their nationals shall enjoy, on the same basis as German nationals residing in the Federal territory, such



compensation for war damage relating to property located in the Federal territory as may be provided by the Federal Republic or any of its Laender, but not Integration Aid (Eingliederungshilfe) or Housing Aid (Wohnraumhilfe).

#### ARTICLE 4

The Federal Republic reaffirms that under German law the state of war shall not in itself be regarded as affecting obligations to pay pecuniary debts arising out of obligations and contracts which existed, and rights which were acquired, before the commencement of the state of war.

#### ARTICLE 5

Any United Nations national, or the successor of such a national who is also a United Nations national, shall have the right to institute, within one year from the entry into force of the present Convention, an action for the revision of any judgment delivered by a German court between 1 September 1939 and 8 May 1945 in any proceeding in which such national was a party and was physically, morally or legally unable to make adequate presentation of his case.

#### ARTICLE 6

1. Pending a final settlement of claims against Germany arising out of the war, the persons defined in paragraph 2 of this Article, and their property, shall be exempt from any exceptional taxes, levies or imposts, the incidence of which is in fact on property, imposed for the specific purpose of meeting charges arising out of the war or out of reparation or restitution to any of the United Nations.

2. Where any such tax, levy or impost is levied only partly for the purposes described in paragraph 1 of this Article, the exemption to be granted shall in principle be proportionate to the part of such taxes, levies or imposts imposed for these purposes. In the particular cases of the levies prescribed by the legislation of the Bizonal Economic Council, and by the corresponding legislation of the Laender of Rhineland-Palatinate, Baden and Wuerttemberg-Hohenzollern, concerning Immediate Aid (Soforthilfe) and by the proposed Final Equalization of Burdens (Lastenausgleich) Law, the persons and property described in the following provision of this Article shall be exempted, to the extent provided, from payments falling due in the six year period from 1 April 1949 to 31 March 1955 as Immediate Aid levies, and as the property levy under the proposed Equalization of Burdens:

(a) Natural persons who were nationals of any of the United Nations on the currency reform date (21 June 1948), and companies, associations of persons and trusts (Koeperschaften, Personenvereinigungen und Vermoegensmassen), which are independently liable for taxation under German law, organized under the laws of one of the United Nations, shall, if subject to unlimited tax liability, be exempted in respect of all property owned by them both on 21 June 1948 and on 8 May 1945 or, if subject to limited tax liability, in respect of all property owned by them in the Federal Republic or Berlin (West). Citizens of any terri-



torial entity or nation referred to in sub-paragraph (c) of Article 1 of Allied High Commission Law No. 54 shall enjoy the same exemption if they had the nationality of any of the United Nations at any time between September 1939 and 21 June 1948;

(b) Companies organized under German law, which are independently liable for taxation, in which the natural persons or companies, associations of persons or trusts described in sub-paragraph (a) of this paragraph owned on 21 June 1948 and on 8 May 1945, directly or through the medium of other companies, a shareholding interest of at least 85 percent shall be exempted in proportion to such shareholding interest;

(c) Natural persons who do not qualify for exemption under subparagraph (a) of this paragraph and who claim or have claimed restitution or compensation pursuant to the legislation referred to in sub-paragraph (a) of paragraph 1 Article 1 of Chapter Three of the present Convention shall be exempted on the first DM 150,000 in value or amount of property of any kind which has been or will be transferred to them under orders, decisions or recorded agreements pursuant to such legislation which would be taxable under the provisions concerning Immediate Aid levies or the property levy under the proposed Equalization of Burdens;

(d) The exemptions prescribed in sub-paragraphs (a) to (c) inclusive of this paragraph shall not become inoperative on the ground that the property concerned has developed upon other persons on or after 21 June 1948.

3. For the purposes of sub-paragraph (a) of paragraph 2 of this Article, property which the owner on 21 June 1948 did not own on 8 May 1945 shall be deemed to have been owned by him on 8 May 1945 if

(a) the property was owned on 8 May 1945 by a person (of any nationality), from whom he acquired it through succession on death (by one or a series of inheritances or testamentary dispositions); or

(b) he acquired the property after 8 May 1945 in exchange for other property owned by him on that date (for example, through purchase); or

(c) the property concerned is restituted property of any kind, without limitation as to the value or amount, referred to in subparagraph (c) of paragraph 2 of this Article.

4. For the purposes of sub-paragraph (b) of paragraph 2 of this Article, the provisions of paragraph 3 of this Article shall be applicable *mutatis mutandis*.

5. Where payments made under the provisions of the Immediate Aid by natural persons, companies, associations of persons and trusts entitled to exemption under paragraph 2 of this Article exceed amounts of the property levy falling due for the same period taking into account the provisions of paragraph 2, the overpayment shall, not later than three months after the effective date of the notice of assessment issued by the German tax office concerning the property levy, be either refunded or set off against liabilities due for payment or which become due within three months thereafter.

6. In cases in which natural persons, companies, associations of persons or trusts enjoy exemption from the property levy by virtue of this article, the annual amount to be paid in respect of the property



levy for the period after the expiration of the exemption period shall not, either because of this exemption or because of the non-payment of the property levy or the Immediate Aid levy, be higher than the annual amount which would be payable by non-exempted natural persons, companies, associations of persons or trusts who have paid the Immediate Aid levy in full. If in computing the property levy the Immediate Aid levy is to be set off in the manner proposed in the draft law submitted to the Bundestag (Bundestag Document No. 3300), that is, by deduction of the Immediate Aid levy from the total liability for the property levy, then in cases where the Immediate Aid levy has not been imposed, three times the basic annual payment under the property levy is to be deducted from the total liability; the basic annual payment shall for this purpose be the amount resulting from the application of the annual contribution rates to the total liability.

7. In computing the liability for the purposes of any other levy under the Final Equalization of Burdens Laws, natural persons, companies, association of persons and trusts enjoying the exemptions under this Article shall be treated as though they had paid the full amount of the property levy.

8. In cases under sub-paragraph (b) of paragraph 2 of this Article both the company, and any shareholder who believes the company should be exempted with respect to his participation, shall be entitled to all legal remedies available.

#### ARTICLE 7

In order to protect the interest of Foreign nationals, the following legislation shall be maintained in force:

(a) In the field of Monetary Reform legislation:

(i) Article (Section) XV (15) of the Third Law for Monetary Reform (Conversion Law) in each Zone, as amended by Allied High Commission Law No. 46; sub-paragraph 3 of paragraph 1 and paragraph 2 of Article 6 of Regulation No. 35 of the Allied Bank Commission under the Conversion Law; paragraphs 4 and 5 of Article 2 and paragraphs 1 and 2 of Article 3 of Regulation No. 40 of the Allied Bank Commission under Conversion Law. The maintenance in force of this legislation shall be subject to review after the conclusion of a treaty or international agreement to which the Three Powers are parties providing for the orderly settlement of German external debts;

(ii) Allied High Commission Laws No. 55 (Second Amendment of Legislation Concerning Monetary Reform), No. 57 (Status of Certain Financial Institutions under Currency Reform Legislation) and No. 65 (Third Amendment of Legislation Concerning Monetary Reform) which supplement, amend and interpret the Conversion Laws;

(iii) Allied High Commission Law No. 73 on Conversion of Notes taken out of Germany by Repatriated Persons;

(b) In the field of legislation concerning Securities Validation: Item 3 of paragraph 1 of Article 2, Article 48, paragraph 10 of Article 59, and paragraph 3 of Article 60 of the Securities Validation Ordinance (Wertpapierbereinigungsgesetz) of 19



August 1949, in conjunction with the Ordinance extending it to the French Zone of 12 May 1950 (Bundesgesetzblatt Seite 180), and paragraphs 2 and 3 of Article 2 and Article 9 of the Law Amending and Supplementing the Securities Validation Ordinance of 29 March 1951 (Bundesgesetzblatt Teil I Seite 211).

(c) In other fields:

(i) Paragraph 1 of Article IV of Control Council Law No. 47 on Termination of German Insurance Operations abroad until an arrangement is made which renders this provision unnecessary;

(ii) Control Council Law No. 57 on Dissolution and Liquidation of Insurance Companies Connected with the German Labour Front, as supplemented by Allied High Commission Law No. 59;

(iii) Allied High Commission Law No. 34 on Application of Land Reform to the Property of Non-German Nationals, as amended by Allied High Commission Laws No. 50, 60, 64 and 72; these laws shall, however, be deemed to be further amended as follows:

(1) the period of one year commencing on the date of acquisition provided for in paragraph 2 of Article 2 of Law No. 34 shall, in respect of an acquisition by inheritance or testamentary disposition, apply only to an acquisition which has taken place prior to 31 December 1952;

(2) an owner of land, whose possession of non-German nationality was in dispute and who for this reason was not in a position to dispose of his land prior to 29 February 1952 pursuant to paragraph 1 of Article 2 of Allied High Commission Law No. 34, may within a period of one year commencing on the date on which it was or will be established that he did not possess German nationality, dispose of his land;

(3) owners of land who were of German as well as of non-German nationality shall, within the meaning of these laws, be deemed to be non-German nationals, if at any time between 1 September 1939 and 8 May 1945 their property was subject to any of the provisions of the German Ordinance on the Treatment of Enemy Properties of 15 January 1940 or any amendment thereto, or any other regulations having a similar purpose. In such case disposition of the land shall be permissible until 31 December 1952.

#### ARTICLE 8

1. Allied High Commission Law No. 8 on Industrial, Literary and Artistic Property Rights of Foreign Nations and Nationals, as amended by Allied High Commission Laws No. 30, 39, 41 and 66 together with the First and Second Implementing Ordinances under Allied High Commission Law No. 8 of 8 May 1950 and 9 November 1950 (Bundesgesetzblatt Seite 357 und Seite 785), shall be maintained in force.



2. However, the provisions of Allied High Commission Law No. 8, as amended, governing the settlement of disputes arising out of the application of that Law, shall be deemed to be amended as follows:

(a) An appeal may be taken to the Arbitral Commission on Property, Rights and Interests in Germany referred to in Article 12 of this Chapter from any decision of last instance of the Patent Office or of its Grand Senate or from any decision in the first instance of the regular courts, in accordance with the provisions of Article 12 of this Chapter and the Charter of the Arbitral Commission.

(b) The powers of the Occupation Authorities under the last sentence of Article 2 and paragraph 3 of Article 7 of Law No. 8 shall lapse.

#### ARTICLE 9

1. For the purposes of this Chapter, the term "United Nations" shall have the same meaning as in Allied High Commission Law No. 54, which is maintained in force for those purposes and also in connection with the maintenance in force of Allied High Commission Law No. 55.

2. For the purposes of this Chapter, the term "United Nations nationals" shall, except as otherwise herein provided, mean:

(a) Natural persons who are nationals of any of the United Nations. Natural persons who have the nationality of one of the United Nations and also German nationality shall be deemed to be exclusively nationals of the United Nations if, at any time between 1 September 1939 and 8 May 1945, their property in Germany was subject to any of the provisions of the German Ordinance on the Treatment of Enemy Properties of 15 January 1940 or any amendment thereto, or any other regulations having a similar purpose, unless it was exempted therefrom by specific permission of the Reich Minister of Justice;

(b) Juristic persons or associations of persons established under the laws of one of the United Nations.

#### ARTICLE 10

If the Federal Republic concludes with any other Power, on matters within the scope of Articles 1 to 9 inclusive of this Chapter, arrangements more favourable to such other Power than the corresponding provisions of those Articles, the benefits of such new arrangements shall automatically be extended to all Powers benefiting from the corresponding provisions of those Articles.

#### ARTICLE 11

In the expectation that such a policy will be applied by such Nations toward the Federal Republic, the Federal Republic declares its intention to pursue a general policy of non-discrimination toward United Nations and their nationals and toward the property, rights and interests of such Nations and nationals, and in general to accord national and most-favoured nation treatment in matters affecting such Nations and nationals and their property, rights and interests in the field of



establishment and navigation. The Federal Republic further declares its readiness to enter into treaties with the United Nations based on these principles.

#### ARTICLE 12

1. The following decisions may be appealed to the Arbitral Commission on Property, Rights and Interests in Germany, referred to in Article 7 of Chapter Five of the present Convention, in accordance with the provisions of its Charter, upon application to the Commission by the party concerned within thirty days after the service thereof:

(a) Decisions under Article 1 of this Chapter of the Federal Higher Authority referred to in the Annex thereto;

(b) Decisions of an administrative court of first instance in regard to discriminatory treatment under Article 3;

(c) Decisions of German courts of first instance (regular courts, administrative courts, finance courts or other courts) relating to the application of Articles 2, 4 and 5;

(d) Decisions of the finance courts of first instance under Article 6;

(e) Decisions of the regular courts of first instance in contentious or non-contentious matters under Article 7;

(f) Decisions of the last instance of the German Patent Office or its Grand Senate under Allied High Commission Law No. 8 or decisions of the regular courts of first instance under that Law pursuant to Article 8.

Appeal to the Arbitral Commission pursuant to sub-paragraphs (b) to (f) inclusive of this paragraph shall not bar the continuance of proceedings before the German courts and authorities on other issues in dispute. If, however, the Commission deems it necessary in order to protect the interests of a party to the proceeding it may order the stay of further proceedings before the German courts or authorities pending the Commission's decision on the question referred to it.

2. If the party affected by a decision referred to in sub-paragraphs (b) to (f) inclusive of paragraph 1 of this Article appeals from the decision to a German court instead of appealing to the Arbitral Commission, such party may not appeal thereafter to the Arbitral Commission against the decision of the German court of higher instance on points on which he could have appealed to the Arbitral Commission. If, in a decision referred to in sub-paragraphs (b) to (f) inclusive of paragraph 1, the requirements for an appeal to the Arbitral Commission did not exist, but if a German court of higher instance renders a decision which in the opinion of the party concerned violates the Articles of this Chapter referred to in paragraph 1, such party may appeal from the decision of the higher German court to the Arbitral Commission.

3. The Commission shall also be authorized to render a decision in any case referred to in paragraph 1 of this Article where the appropriate German court or authority has not rendered a final decision within one year following submission to it and where the party concerned submits the matter for the decision of the Commission within thirty days after the expiration of that year.

4. In any case referred to in paragraphs 1, 2 or 3 of this Article, the Commission may render a final decision or may remand the case to the



court or authority concerned, with such instructions as the Commission deems necessary or appropriate.

5. Decisions and instructions of the Commission shall be final and binding on all German courts and authorities.

\* \* \*

## ANNEX TO CHAPTER TEN

### SECTION 1

1. The Federal Government shall establish a Federal Higher Authority (Bundesoberbehörde) to receive, to consider and decide on applications for return and restoration under paragraph 2 of Article 1 of the foregoing Chapter. The Federal Government may issue regulations for carrying out the provisions of this Annex.

2. All German courts and authorities shall render the Federal Higher Authority legal and other official assistance pursuant to Article 35 of the Basic Law.

### SECTION 2

1. Applications for return or restoration shall be made in writing, or by oral statement to be recorded, to the Federal Higher Authority.

2. Applications shall include

(a) first name, last name and address of the claimant and of his predecessor in title when applicable;

(b) description of the discriminatory measure and of the property, rights or interests affected by it;

(c) nationality of the claimant and of his predecessor in title, when applicable, at the time of the discriminatory measure.

3. Applications shall, if possible, include information concerning the person to whom the property, rights or interests were transferred, and concerning the person holding the property, rights or interest at the time of filing of the application.

4. Furthermore, all information and documents available to the claimant which refer to the property, rights or interests and to the discriminatory measures taken in respect of the property, rights or interests shall be attached to the application in the original or in a certified copy. On request, the original shall be submitted.

### SECTION 3

Proceedings before the Federal Higher Authority shall be free of charge, except where frivolous or obviously unfounded applications are involved.

### SECTION 4

1. The Federal Higher Authority shall on its own motion (von Amts wegen) conduct the necessary investigations. For this purpose it may take evidence, in particular hear witnesses, experts and the parties concerned or cause their hearing before a court. Where a hearing under oath appears necessary, such oath shall be sworn before a court. The Federal Higher Authority shall be authorized to accept statements in lieu of oaths (eidesstattlichen Versicherungen).



2. In addition to the claimants, all persons shall be considered parties concerned whose rights would be affected by the return or restoration.

3. The parties concerned shall be afforded an opportunity to state their views. They may be represented by agents or counsel. They shall be notified of the dates of the hearings ordered for the purpose of interrogation, pursuant to the second sentence of paragraph 1 of this Section, and may attend these hearings. The documents filed by a party concerned shall be transmitted to the other parties.

#### SECTION 5

Where realization of the return or restoration claim appears to be endangered, the Federal Higher Authority shall order the necessary interim measures to be taken for safeguarding the property, rights or interests.

#### SECTION 6

The Federal Higher Authority shall use its good offices to bring about an amicable settlement between the parties concerned. A compromise reached by the parties shall be recorded.

#### SECTION 7

Decisions of the Federal Higher Authority shall state in writing the reasons upon which they are based and shall be served upon the parties concerned.

#### SECTION 8

1. The Federal Higher Authority shall take all measures required for the return and restoration or shall determine which measures shall be taken by the authority competent in the circumstances of the case.

2. The Federal Higher Authority shall, in particular, be empowered to order, where necessary for the purpose of return or restoration, expropriation in favor of the Federal Republic, which shall effect the return or restoration. The nature and amount of the compensation to persons affected by the expropriation shall be fixed by a Federal law.

\* \* \*

### CHAPTER ELEVEN—FACILITIES FOR THE EMBASSIES AND CONSULATES OF THE THREE POWERS IN THE FEDERAL REPUBLIC

#### ARTICLE 1

In order to facilitate the smooth transition from the Occupation regime to normal diplomatic relationships, and to provide for the accommodation of their Embassies and Consulates, the Three Powers shall be entitled, in accordance with the provisions of this Chapter, to the continued use for a transitional period of the following property used by them on the entry into force of the present Convention, provided such property is required for use by the Embassies and Consulates to be set up by the Three Powers:



(a) (i) Movable and immovable property belonging to the Federal Republic, other than property administered by the German Federal Railways or Federal Post;

(ii) Movable and immovable property previously owned by the former Reich which, on the entry into force of the present Convention, is subject to the administration of the Federal Republic in accordance with the Law for a Provisional Settlement of the Legal Status of Reich Property and the Prussian Shares of 21 July 1951 (Bundesgesetzblatt Teil I, Seite 467) and the Ordinance for the Implementation of Article 6 of that Law of 26 July 1951 (Bundesgesetzblatt Teil I, Seite 471), other than property administered by the German Federal Railways or Federal Post;

(b) Movable and immovable property belonging to the constituent Laender of the Federal Republic and their political sub-divisions;

(c) Privately owned movable and immovable property;

(d) Immovable property the construction of which was financed out of occupation costs or mandatory expenditure funds of the Federal Republic or its constituent Laender;

(e) Movable property acquired from occupation costs or mandatory expenditure funds.

#### ARTICLE 2

1. The property referred to in sub-paragraphs (a), (b), (c) and (d) of Article 1 of this Chapter shall be determined after hearing the interested parties and taking into account the special needs of the Three Powers during the transitional period, by mutual agreement between representatives to be designated for that purpose by each of the Three Powers and the Federal Republic respectively, and with the cooperation of the Protocol Department of the Federal Foreign Office.

2. Property of the type specified in sub-paragraphs (a), (b), (c) and (d) of Article 1 which is not included in the determination made pursuant to the preceding paragraph will be released.

#### ARTICLE 3

1. The Three Powers will endeavour to convert their right of use of the property referred to in sub-paragraphs (a), (b), (c) and (d) of Article 1 of this Chapter into tenancy arrangements under private law.

2. With respect to property referred to in sub-paragraph (a) of Article 1, the Federal Government will meet the Three Powers to a reasonable extent in agreeing the amount of the rent.

3. Rents for property referred to in sub-paragraphs (b) and (c) of Article 1 shall be based on those usual in the locality for the property concerned. So far as concerns Federal property referred to in sub-paragraph (d) of Article 1, for the period until 1 October 1953, compensation shall be paid only in respect of the use of the land, taking into account, however, public charges and charges for special services or assessments for local improvements payable by the owner



of the land in respect of such land. After such period a rent which is reasonable in the circumstances shall be paid for both land and buildings.

4. The Federal Government will place its good offices at the disposal of the Three Powers for the conclusion of tenancy arrangements with respect to property referred to in sub-paragraphs (b) and (c) of Article 1.

#### ARTICLE 4

1. If tenancy agreements pursuant to Article 3 of this Chapter are not concluded, the Three Powers shall pay compensation for use (*Nutzungsvergütung*) from the entry into force of the present Convention. The amount of such compensation as well as the amount of compensation to be paid for damage which occurs after the entry into force of the present Convention shall be determined in accordance with the Federal legislation relating to the procurement of goods, services and land for official agencies (*Bundesleistungsgesetzgebung*) which shall also apply to the manner of use of the property. Until the entry into force of this legislation, the hitherto existing basis for the assessment of compensation (*Vergütung*) for the property used, in accordance with this chapter, by the Embassies and Consulates shall continue to operate.

2. The Federal Republic will not demand compensation for wear and tear of its property referred to in sub-paragraphs (a) and (d) of Article 1, and the Three Powers will not demand compensation for improvements made by them to such property.

#### ARTICLE 5

1. The release of property referred to in sub-paragraph (c) of Article 1 of this Chapter will be given priority and will be effected at the earliest possible moment and in any case not later than 1 October 1953, unless, in respect of any such property, tenancy arrangements have been concluded in pursuance of Article 3.

2. Property referred to in sub-paragraph (e) of Article 1 will be released not later than 1 October 1953. Its continued use after that date will be the subject of negotiation between the Federal Republic and each or any of the Three Powers.

3. All other property referred to in Article 1 will be released as soon as it becomes surplus to the requirements of the Three Powers with regard to their Embassies and Consulates.

4. The Federal Government will endeavour, by the construction of new buildings, to make available alternative accommodation for rental or purchase by the Three Powers.

#### ARTICLE 6

In order to facilitate the operations of the Three Powers in building accommodation for their Embassies and Consulates and their staffs, the Federal Government will, on request of the Three Powers, accord them priority in the supply of building materials.



## ARTICLE 7

The personnel of the Embassies and Consulates of the Three Powers not possessing German nationality shall be entitled to make use of the facilities of the non-German organizations established by the Forces of the Three Powers pursuant to Article 15 of the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany.

## ARTICLE 8

Nothing in this Chapter shall be deemed to affect property required by the Three Powers for the use of their Armed Forces according to the provisions of the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany and of the Finance Convention.

## CHAPTER TWELVE—CIVIL AVIATION

## ARTICLE 1

The Federal Republic will assume full responsibility in the field of civil aviation in the Federal territory, subject to the provisions of Articles 2 to 7 inclusive of this Chapter and of any other agreement between the Three Powers and the Federal Republic which enters into force simultaneously with the present Convention.

## ARTICLE 2

The Federal Republic undertakes to adhere to the Convention on International Civil Aviation drawn up in Chicago in 1944 as soon as it is possible for it to do so in accordance with the terms of that Convention. Pending such adherence, the Federal Republic undertakes

(a) to apply and abide by the provisions of the Convention on International Civil Aviation and the International Air Services Transit Agreement of 1944, with respect to any other State which has declared its willingness to extend reciprocal treatment to the Federal Republic and which maintains diplomatic relations with the Federal Republic. The Federal Republic will make known its position in this respect to the States concerned and will enter into the appropriate arrangements necessary to put this undertaking into effect;

(b) to apply to the international civil aviation operations into and through the air space of the Federal Republic the fundamental principles of international air navigation and the standards, procedures, and recommended practices as provided for by the Convention on International Civil Aviation of 1944;

(c) to accord to aircraft of foreign countries which may be granted rights to engage in air services or to operate in the air space of the Federal Republic, in the exercise of those rights, the same rights and privileges with respect to the use of air navigation and other facilities in the Federal Republic as are or would



be accorded to civil aircraft of the Federal Republic in similar operations.

#### ARTICLE 3

The Federal Republic agrees to pursue, in its bilateral air transport agreements and arrangements, a liberal and non-discriminatory policy.

#### ARTICLE 4

1. The Federal Republic will permit the air carriers of any State to continue their operations, including cabotage, in the Federal territory on a basis not less favourable than that enjoyed by them on the entry into force of the present Convention. Such permission shall not be withdrawn for a period of one year from the entry into force of the present Convention or until the coming into effect of air transport agreements or other authorization agreed with such State, whichever is earlier, provided that, where negotiations for an air transport agreement or other authorization have been begun or proposed by either party within such period of one year, such permission shall not be withdrawn before agreement has been reached thereon or, in event of failure to reach agreement, until the expiry of one year from the date of the proposal by either party for negotiations.

2. With respect to cabotage, such privileges may nevertheless be withdrawn if and when a German airline provides service adequate to meet public needs over a route or routes now serviced through the cabotage privileges of a foreign air carrier. Any change not involving withdrawal of cabotage privileges enjoyed on the entry into force of the present Convention shall be subject to the provisions of paragraph 1 of this Article and shall be made in accordance with the relevant principles and provisions of the Convention on International Civil Aviation.

3. The term "German airline" means an airline substantially owned and effectively controlled by German nationals or governmental authorities.

#### ARTICLE 5

1. In the exercise of their responsibilities with respect to Berlin, the Three Powers will continue to regulate all air traffic to and from the Berlin air corridors established by the Allied Control Authority. The Federal Republic undertakes to facilitate and assist such traffic in every way on a basis no less favourable than that enjoyed on the entry into force of the present Convention; it undertakes to facilitate and assist unlimited and unimpeded passage through its air space for aircraft of the Three Powers en route to and from Berlin. The Federal Republic agrees to permit any necessary technical stops by such aircraft and further agrees that such aircraft may carry passengers, cargo, and mail between places outside the Federal Republic and Berlin and between the Federal Republic and Berlin.

2. Nothing in this Article shall confer or affect any cabotage privileges within the Federal territory.



## ARTICLE 6

In the exercise of their responsibilities relating to Germany as a whole, the Three Powers will continue to exercise control with respect to aircraft of the Union of Soviet Socialist Republics utilizing the air space of the Federal Republic.

## ARTICLE 7

The Federal Republic will give to the Three Powers notice of the dates upon which it is prepared to assume full responsibility for the various air traffic services, navigational aids and accident investigation in the field of civil aviation and will in any event assume full responsibility for all such matters by 31 March 1953. After receipt of any such notice, prior to 31 March 1953 and upon agreement between the Three Powers and the Federal Republic, full responsibility for the service or services designated in such notice will be assumed by the Federal Republic. Until such assumption, the Three Powers will continue to provide such assistance and exercise such responsibility as shall be mutually agreed, and the actual costs necessarily incurred by the Three Powers arising from such services will be borne by the Federal Republic.

IN FAITH WHEREOF the undersigned representatives duly authorized thereto by their respective Governments have signed the present Convention, being one of the related Conventions listed in Article 8 of the Convention on Relations between the Three Powers and the Federal Republic of Germany.

DONE at Bonn this twenty-sixth day of May, 1952 in three texts, in the English, French and German languages, all being equally authentic.

For the United States of America:	For the United Kingdom of Great Britain and Northern Ireland:
S/ DEAN ACHESON	S/ ANTHONY EDEN
For the French Republic:	For the Federal Republic of Germany:
S/ ROBERT SCHUMAN	S/ ADENAUER

## ANNEX TO THE CONVENTION ON THE SETTLEMENT OF MATTERS ARISING OUT OF THE WAR AND THE OCCUPATION

### *CHARTER OF THE ARBITRAL COMMISSION ON PROPERTY, RIGHTS AND INTERESTS IN GERMANY*

#### PART I—DURATION, SEAT, COMPOSITION AND ORGANIZATION

## ARTICLE 1

1. The Commission is established for a period of ten years to run from the entry into force of the present Charter.



2. This period may be curtailed or extended by agreement between the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the French Republic (hereinafter referred to as "the Three Powers") and of the Federal Republic of Germany (all collectively hereinafter referred to as "the Signatory States").

3. After the date of expiration of this period, the Commission will continue to function to complete the determination of any cases pending before it at that date.

#### ARTICLE 2

The seat of the Commission shall be at the seat of the Arbitration Tribunal referred to in Article 9 of the Convention on Relations between the Three Powers and the Federal Republic of Germany. The Commission may, however, sit and exercise its functions elsewhere when it deems it desirable to do so.

#### ARTICLE 3

1. The Commission shall be composed of nine permanent members who shall have the qualifications required in their respective countries for appointment to judicial office or equivalent qualifications.

2. The nine permanent members of the Commission shall be appointed as follows:

(a) Three members appointed by the Governments of the Three Powers, one by each Government;

(b) Three members appointed by the Federal Government; and

(c) Three members (hereinafter referred to as "the neutral members") appointed by agreement between the Governments of the Three Powers and the Federal Government, none of whom shall be a national of any State which participated in the war.

3. The Governments of the Three Powers and the Federal Government shall make known their first appointments not later than thirty days after the entry into force of the present Charter. Within the same period, the Governments of the Three Powers and the Federal Government shall agree upon the three neutral members. If, after the expiry of such period, one or more of the neutral members shall not have been appointed either the Governments of the Three Powers or the Federal Government may request the President of the International Court of Justice to appoint such neutral member or members.

4. Appointments to fill vacancies shall be made in the same manner as the appointment of the permanent member to be replaced. However, if a vacancy to be filled by the Government of one of the Three Powers or the Federal Government is not so filled within one month of its occurring, either the Governments of the Three Powers or the Federal Government may request the President of the International Court of Justice to make an interim appointment to the vacancy of a person who shall not be a national of any State which participated in the War and who shall serve for a period of six months or until the vacancy is filled in the normal manner, whichever is longer. If the member to be replaced is a neutral member, the Governments of the Three Powers or the Federal Government may request the President



of the International Court of Justice to make such appointment, if the agreement envisaged by sub-paragraph (c) of paragraph 2 of this Article has not been reached within one month of the vacancy occurring.

5. The Commission may, by majority vote, declare a vacancy if, in its opinion, a member has, without reasonable excuse, failed or refused to participate in the hearing or decision of a case to which he has been assigned.

6. The Government of any State which has acceded to the present Charter pursuant to Article 17 hereof may appoint a member adjoint by notification addressed to the Governments of the Three Powers and the Federal Government. Any such member adjoint shall meet the requirements specified in paragraph 1 and shall be subject to the provisions of paragraph 5 of this Article. The appointing Government may fill a vacancy by notification addressed to the Governments of the Three Powers and the Federal Government.

7. The Secretariat of the Arbitration Tribunal shall serve the Commission as its administrative office.

#### ARTICLE 4

1. The permanent members shall be appointed for the duration of the Commission including the additional period provided for in paragraph 3 of Article 1 of the present Charter. Members adjoint may be appointed for shorter periods or for particular cases.

2. Members of the Commission shall not engage in any activity incompatible with the proper exercise of their duties, nor shall they participate in the adjudication of any case with which they have previously been concerned in another capacity or in which they have a direct interest. Differences of opinion regarding the applicability of this paragraph shall be resolved by the Commission.

3. (a) During and after their terms of office, the members of the Commission shall enjoy immunity from suit in respect of acts performed in the exercise of their official duties.

(b) The members of the Commission who are not of German nationality shall, moreover, enjoy in the Federal territory the same privileges and immunities as are accorded members of diplomatic missions. If sittings or official acts take place in the territory of one of the Three Powers, the members of the Commission who are not of the nationality of the country in which the sitting or act takes place shall enjoy diplomatic privileges and immunities in such country.

4. Every member of the Commission shall, before taking office, make a declaration at a public session that he will exercise his duties impartially and conscientiously.

5. Subject to the provisions of paragraph 5 of Article 3 of the present Charter, no member may be dismissed before the expiry of his term of office, except by agreement between the Governments of the Three Powers and the Federal Government and,

(a) in the case of a member appointed by the Government of an acceding State, with the agreement of such Government;

(b) in the case of a member appointed by the President of the International Court of Justice, with the consent of its President.



6. Any member may at any time resign his office by giving due notice thereof under his hand to the appointing Government or Governments and to the President of the Commission. But he shall continue in office until his successor has taken his seat, unless the appointing Government or Governments and the President agree otherwise.

#### ARTICLE 5

1. The Commission shall elect its President from the three neutral members to serve for two years. The President shall be eligible for re-election. If the President shall cease to be a member of the Commission, the Commission shall elect a new President after his successor as a member of the Commission has been appointed. The remaining neutral members shall serve as Vice-Presidents.

2. The Commission, presided over by the President or one of the Vice-Presidents, shall sit either in plenary session or in Chambers of three members.

3. A plenary session shall, in principle, include all the permanent members of the Commission. A quorum of five members shall suffice to constitute a plenary session; it shall be composed of an uneven number of members, and in any case shall consist of an equal number of the members appointed by the Governments of the Three Powers and of those appointed by the Federal Government, and at least one neutral member. Members adjoint shall not take any part in a plenary session.

4. (a) Chambers shall be composed of one of the members appointed by the Governments of the Three Powers, one of the members appointed by the Federal Government and one neutral member. The Commission in plenary session shall nominate the members of such Chambers, define the categories of cases with which a Chamber will be concerned or assign a particular case to a Chamber. Subject to the provisions of paragraph 5 of Article 13 of the present Charter, any decision of a Chamber, on a case assigned to it, shall be deemed to be a final decision of the Commission.

(b) In cases heard by Chambers where any of the parties is one of the Three Powers or its national or resident, the member appointed by the Government of such Power shall sit unless such party otherwise agrees.

(c) In cases heard by Chambers, other than those referred to in sub-paragraph (b) of this paragraph,

(i) where any of the parties is one of the acceding States or its national or resident, the member appointed by the Government of one of the Three Powers shall be replaced by the member adjoint appointed by the Government of such acceding State upon the latter's application to the President.

(ii) where more than one of the parties are acceding States or nationals or residents of acceding States, such States, nationals or residents may agree to the replacement of the member appointed by the Government of one of the Three Powers by one of the members adjoint appointed by the Governments of the States which, or whose nationals or residents, are parties, and such replacement shall be made upon application of all the States, nationals or residents concerned.



In default of such agreement, the member appointed by the Government of one of the Three Powers shall sit in the Chamber.

5. The Commission shall sit in public unless it decides otherwise. The deliberations of the Commission shall be and shall remain secret as shall all facts brought to its attention in closed session.

## PART II—COMPETENCE, POWERS AND APPLICABLE LAW

### ARTICLE 6

1. The Commission shall have jurisdiction in all disputes envisaged under Article 7 of Chapter Five and Article 12 of Chapter Ten of the Convention on the Settlement of Matters Arising out of the War and the Occupation (hereinafter referred to as “the Convention”). Subject to the provisions of paragraph 2 of Article 9 and of Article 10 of the Charter of the Arbitration Tribunal, the Commission may decide questions as to the extent of its jurisdiction. The President of the Commission may ask the Arbitration Tribunal for an advisory opinion, under Article 25 of its Charter, as to the extent of the jurisdiction of the Commission.

2. The jurisdiction, in the first instance or on appeal, as the case may be, of the Commission in disputes within its competence which are submitted to it shall be exclusive and no court or tribunal of the Signatory States or of any other State, nor any other national or international body, shall have jurisdiction in such disputes.

3. The Commission shall also have jurisdiction in any other matter which may be referred to it from time to time by agreement between the Signatory States. If any acceding State is directly concerned in the matter, the consent of its Government shall also be necessary.

4. Disputes within the jurisdiction of the Commission may be submitted by any of the Signatory States or any State which has acceded to the present Charter, by a national or resident of any such State or of any territorial entity which is administered or controlled by any such State or for whose international relations such State is responsible, or by a juristic person established under the laws of any such State or territorial entity.

5. The Commission shall be competent to decide questions of law and fact.

### ARTICLE 7

1. The Commission or, in a case of urgency, the President shall have the power to issue such orders as may be necessary to conserve the respective rights of the parties pending the judgment of the Commission. Any orders issued by the President under this Article may be confirmed, amended or annulled by the Commission within seventy-two hours after the notification thereof to the parties.

2. Any party affected by such an order of the Commission or of the President who shall not have been heard prior to the making thereof may apply to the Commission for the amendment or annulment of the order at such time and in such manner as may be prescribed in the rules of procedure envisaged in Article 14 of the present Charter.



## ARTICLE 8

In arriving at its decisions, the Commission shall apply the provisions of the Convention and of legislation made applicable thereby. Where necessary to supplement or interpret such provisions, or in the absence of any relevant provisions, it shall apply the general principles of international law and of justice and equity.

## PART III—PROCEDURE

## ARTICLE 9

1. The official languages of the Commission shall be French, English and German. However, the President may, with the consent of the parties, direct that only one or two of these languages shall be used in the proceedings in any cause.

2. Decisions of the Commission shall be delivered in all three languages.

## ARTICLE 10

Proceedings before the Commission shall be instituted by a written complaint which shall contain a statement of the facts giving rise to the dispute and the arguments put forward by the complainant. Unless the Commission decides otherwise, an answer to the complaint shall be filed within one month of the service of the complaint. Further pleadings, if any, shall be filed as the Commission may direct.

## ARTICLE 11

1. States as parties to the proceedings before the Commission shall be represented by agents. They may be assisted by counsel.

2. Natural persons may appear before the Commission either in person or by counsel, and juristic persons either by authorized representatives or by counsel.

3. Any government agent shall be authorized to present orally and in writing arguments and submissions in cases to which a national or resident of his State is a party.

4. The Commission may prescribe the qualifications which counsel must possess in order to be admitted.

5. The agents, counsel and representatives referred to in this Article shall enjoy immunity from suit in respect of acts performed in the exercise of their duties. Any natural persons appearing in person shall enjoy the same immunity.

## ARTICLE 12

The Commission shall have power to demand the production of evidence, documentary or other, to require the attendance of witnesses to testify, to request expert opinion, and to direct inquiries to be made. To this end the Commission may request the aid of the courts of any Signatory or acceding State.



## ARTICLE 13

1. All decisions of the Commission shall be in the form of judgments or orders and shall be by majority vote of the members taking part.

2. Subject only to this Article and to paragraph 2 of Article 9 and Article 10 of the Charter of the Arbitration Tribunal, all final judgments and orders of the Commission shall be binding on all parties and shall not be subject to appeal.

3. All judgments shall be delivered in writing and in open court. They shall include a statement of the facts and the reasons on which they are based.

4. Final decisions of the Commission in plenary session shall not be subject to appeal. The final decision on a case assigned to a Chamber must be taken by the Arbitral Commission in plenary session if the Chamber, before it has pronounced a final decision, decides to refer the case to the plenary session.

5. Decisions of the Chambers may, by leave of the Chamber or the plenary session be appealed on the law to the plenary session. Leave to appeal shall be sought within thirty days from the time the written decision is served upon the party, and such leave shall lapse if no appeal is lodged within thirty days from the date on which it is granted.

6. An appeal shall always lie to the plenary session or the Chamber from any order made by a member of the Commission sitting singly, within thirty days after service of such order upon the party concerned.

7. The revision of a final decision may not be requested of the Commission except upon the grounds of the discovery of a fact which is of such a nature as to exercise a decisive influence, and of which the Commission and the party requesting revision had been unaware before the pronouncement of the decision. The Commission sitting in plenary session shall decide whether such a revision is warranted.

## ARTICLE 14

1. The proceedings shall consist of two parts: written and oral. Oral proceedings may be dispensed with if both parties so request.

2. The Commission shall determine rules of procedure consistent with the present Charter. These rules may provide for the rendering of judgments on default if a party fails to appear or to file pleadings. They may also provide for the assignment to any member of the Commission of special duties.

## ARTICLE 15

1. The Commission may adopt rules of assessment for court costs, including rules enabling persons to sue or be sued *in forma pauperis*.

2. In general, each party to a proceeding shall pay its own costs. However, the Commission may make an order as to the costs of parties in exceptional cases, recording its reasons as a part of the judgment, where the proceedings have been found to be malicious or vexatious.



## PART IV—ADMINISTRATION AND EXPENSES

## ARTICLE 16

1. Each of the Signatory States and any State acceding to the present Charter shall bear the full charge by way of salary and allowances of each of the members of the Commission appointed by itself.

2. The operating costs of the Commission (including the salaries and allowances of the neutral members) shall be borne equally by the Three Powers, on the one hand, and the Federal Republic, on the other.

3. The administration of the Commission, the accommodations of the Commission, its members and its staff, the salaries and allowances of the neutral members, staff appointments and staff salaries shall be regulated by a subsidiary administrative agreement between the Signatory States.

## PART V—FINAL CLAUSES

## ARTICLE 17

1. The present Charter shall enter into force on the entry into force of the Convention.

2. Any State may accede to the present Charter by written notification addressed to each of the Signatory States through diplomatic channels and by the deposit with the Federal Government of an instrument of accession to the present Charter. The present Charter shall be binding on each acceding State as of the date of deposit of its instrument of accession.

3. Any State which accedes to the present Charter shall be deemed to become thereby a principal party to the agreement between the Signatory States contained in Chapter Five and Chapter Ten of the Convention.

4. Any State acceding to the present Charter agrees to be bound by decisions of the Arbitration Tribunal pursuant to paragraph 2 of Article 9 of its Charter concerning the extent of the jurisdiction of the Commission.



# CONVENTION ON THE RIGHTS AND OBLIGATIONS OF FOREIGN FORCES AND THEIR MEMBERS IN THE FED- ERAL REPUBLIC OF GERMANY

The UNITED STATES OF AMERICA, the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND and the FRENCH REPUBLIC, of the one part, and the FEDERAL REPUBLIC OF GERMANY, of the other part, AGREE AS FOLLOWS:

## PART ONE—GENERAL

### ARTICLE 1—DEFINITIONS

In the present Convention and the Annexes hereto the following terms shall be given the meanings hereinafter indicated:

1. The Federal territory:

The territory in which the Federal Republic exercises jurisdiction, including its waters and the air space over such territory and waters.

2. The Three Powers:

The United States of America, the United Kingdom of Great Britain and Northern Ireland and the French Republic.

3. Other Sending State:

Any Power, other than one of the Three Powers, which, by agreement with the Three Powers or any one of them, has Forces stationed in the Federal territory on the entry into force of the present Convention; and any other Power which may in future by such agreement have Forces stationed in the Federal territory, so far as such Power does not, with the consent of the Three Powers, conclude a separate Convention with the Federal Republic concerning the status of its Forces.

4. The Power concerned:

That Power whose rights and obligations are concerned in the particular case, namely:

(a) in the case of one of the Three Powers, that Power;

(b) in the case of another Sending State,

(i) that one of the Three Powers which has been named as the Power concerned on the basis of an agreement, to be notified to the Federal Government, between the Sending State and the Three Powers or any one of them; or

(ii) the Sending State itself to the extent to which it assumes vis-a-vis the Federal Republic, by an agreement concluded with the Three Powers or any one of them, after ascertaining the views of the Federal Government, all or certain of the rights and obligations arising out of the present Convention, and gives the Federal Government formal notification thereof; for the remaining



rights and obligations, one of the Three Powers to be notified to the Federal Republic in accordance with item (i) of this sub-paragraph.

5. The Forces:

The armed Forces of the Three Powers and of other Sending States stationed in the Federal territory.

6. The authorities of the Forces:

The authorities of the Forces of the Power concerned.

7. Members of the Forces:

(a) Persons who, by reason of their military service relationship, are serving with the armed Forces of the Three Powers or other Sending State and are present in the Federal territory (military personnel);

(b) Other persons who are in the service of such armed Forces or attached to them, with the exception of persons who are nationals neither of one of the Three Powers nor of another Sending State and have been engaged in the Federal territory; provided that any such other persons who are stationed outside the Federal territory or Berlin shall be deemed to be members of the Forces only if they are present in the Federal territory on duty (followers).

The following are considered "members of the Forces": dependants, who are the spouses and children of persons defined in sub-paragraphs (a) and (b) of this paragraph or close relatives who are supported by such persons and for whom such persons are entitled to receive material assistance from the Forces. The definition "members of the Forces" shall include Germans only if they enlisted or were inducted into, or were employed by, the armed Forces of the Power concerned in the territory of that Power and at that time either had their permanent place of residence there or had been resident there for at least a year.

8. Germans:

Germans within the meaning of German law.

9. Accommodation:

Land, including all property permanently attached thereto, and all rights of use related to land, including such property, used or to be used by the Forces within the Federal territory.

10. Installations:

Land, buildings or part thereof, and all property permanently attached thereto, which, pursuant to the provisions of the present Convention, are allotted for the exclusive use or occupancy (im ausschliesslichen Besitz) of the Forces. This definition shall not apply to Article 20 of the present Convention.

#### ARTICLE 2—OBSERVANCE OF GERMAN LAW. POLITICAL ACTIVITY

1. The members of the Forces shall observe German law, and the authorities of the Forces shall undertake and be responsible for the enforcement of German law against them, except as otherwise provided in the present or in any other applicable Convention or agreement.

2. The members of the Forces shall abstain from any activity inconsistent with the spirit of the present Convention and shall in particular refrain from any political activity.



## ARTICLE 3—GENERAL OBLIGATIONS

1. In asserting the rights and immunities accorded to them under the present Convention, the Forces shall give due consideration to German interests, public and private, particularly by taking into account the capacity of the German economy and the essential domestic and export requirements of the Federal Republic and West Berlin.

2. The German authorities shall exercise the powers which they have under the Basic Law in the fields of legislation, administration and judicial action so as to ensure the protection and security of the Forces and their members and of the property of the Forces and their members, and to ensure the satisfaction of the requirements of the Forces and the performance of the obligations of the Federal Republic as provided in the present Convention.

3. The provisions of Annex A to the present Convention shall enter into force simultaneously with the present Convention. They shall apply also to offences committed in the Federal territory against the Armed Forces of the Three Powers stationed in Berlin. The Federal Republic shall not reduce the legal protection afforded by the provisions of this Annex.

4. The German authorities shall not subject or, within the scope of their powers, permit the subjection of the Forces and their members, or the property of the Forces and their members, to prejudiced or less favourable treatment, other than that which is, in accordance with international law and practice, established by law with respect to aliens ordinarily resident in the Federal territory.

## ARTICLE 4—RECIPROCAL ASSISTANCE AND SECURITY

1. The authorities of the Forces and the German authorities shall extend full co-operation and assistance to each other to further and safeguard the security of any Power concerned and of the Federal Republic and that of the Forces stationed in the Federal territory, and their members, and of the property of the Forces and their members.

2. Such co-operation and assistance shall extend, in accordance with an understanding to be reached between the appropriate authorities, to the collection, exchange and protection of the security of all pertinent information.

## ARTICLE 5—LIAISON

The authorities of the Forces and the German authorities shall take appropriate measures to ensure close and reciprocal liaison.

## PART TWO—JURISDICTION

*Section I: Criminal Proceedings*

## ARTICLE 6—CRIMINAL OFFENCES: JURISDICTION AND APPLICABLE LAW

1. Except as otherwise provided in the present Convention, the authorities of the Forces shall exercise exclusive criminal jurisdiction over members of the Forces. A death sentence shall not be carried out



in the Federal territory by the authorities of the Forces as long as German law does not provide for such penalty.

2. Where, under the law of the Power concerned, the service tribunals are not competent to exercise criminal jurisdiction over a member of the Forces, the German courts and authorities may exercise criminal jurisdiction over him in respect of an offence under German law committed against German interests, in accordance with the following provisions:

(a) No criminal proceedings, other than those provided for in Article 7 of the present Convention, or urgent preliminary investigations, after consultation, as far as practicable, with the authorities of the Forces, shall be instituted by the German courts or authorities until the authorities of the Forces have been consulted by the appropriate German authorities and been given the opportunity, within twenty-one days from the receipt of information as to the facts involved, to make representations and recommendations in regard to the effect upon the security of the Forces of any such criminal proceedings; any such representations and recommendations shall be given due weight by the German courts or authorities. Such consultation shall, however, not be required where the alleged offence is one the penalty for which, under German law, is merely detention for not more than six weeks or a fine not exceeding DM.150 (*Uebertretung*), unless the German authorities consider that the security of the Forces is or might be involved in the case in question;

(b) The German courts and authorities shall, within the discretionary powers conferred on them by German law, abstain from prosecution in any case in which

(i) such abstention is permitted by German law; or

(ii) the offender has been suitably punished by disciplinary action of the authorities of the Forces;

(c) The German courts and authorities shall decide upon questions of arrest, detention and execution of punishment in accordance with the provisions of German law. The authorities of the Forces shall execute any warrants of arrest and detention. An accused person so taken into custody by the authorities of the Forces shall remain in their custody until, by virtue of a final (*rechtskraeftig*) judicial decision, he is released or sentenced. The authorities of the Forces will take appropriate measures to prevent any prejudice to the course of justice (*Verdunkelungsgefahr*). They will hold an accused person so taken into custody at the disposal of the German courts and authorities, will grant access to him at any time by the German courts and authorities and on request present him to the German courts and authorities for the purposes of investigatory proceedings, trial and the serving of any sentence which may be imposed. Where an accused person is not taken into custody, the authorities of the Forces will take measures to ensure that he is at the disposal of the German courts or authorities for the purposes aforesaid;

(d) Any sentence of imprisonment shall be served in a German penal institution.

For the purposes of this paragraph, the expression "offence under German law committed against German interests" shall mean any



offence under German law other than an offence directed against the Forces, their members, or the property of the Forces or their members.

3. The exclusive jurisdiction of the German authorities over persons who are subject to German criminal jurisdiction shall include those cases in which the criminal offence is directed against the Forces, their members, or the property of the Forces or their members.

4. With the consent of the German authorities, the authorities of the Forces may transfer to German courts or authorities, for investigation, trial and decision, groups of, or particular, cases for which they are exclusively competent under paragraph 1 of this Article.

5. With the consent of the authorities of the Forces, the German authorities may transfer to the authorities of the Forces, for investigation, trial and decision, particular cases of the nature described in paragraph 3 of this Article in which the alleged offender is not a German.

6. In cases under paragraphs 1 and 5 of this Article, the authorities of the Forces will apply their own law. If such cases involve acts which are punishable under German law, but not under the law of the Power concerned, German law shall apply.

7. In cases under paragraphs 3 and 4 of this Article, German law shall apply.

#### ARTICLE 7—ARREST, SEARCH AND SEIZURE

1. Members of the Forces who properly identify themselves by means of an identity document issued under Article 24 of the present Convention shall not be subject to arrest by German authorities.

2. German authorities may, however, take into custody a member of the Forces, without subjecting him to the ordinary routine of arrest, in order immediately to deliver him, together with any weapons or items seized, to the nearest appropriate authorities of the Forces.

(a) when so requested by the authorities of the Forces;

(b) in the following cases in which the authorities of the forces are unable to act with the necessary promptness;

(i) when apprehended in *flagrante delicto*

(1) for the commission or attempted commission of a criminal offence which results or might result in serious injury to persons or property, or serious impairment of other legally protected rights (*Rechtsgüter*); or

(2) insofar as this appears necessary to abate an already existing serious disturbance of public order;

(ii) if there is danger of flight, for the commission or attempted commission of espionage to the prejudice of the Federal Republic.

3. (a) The German authorities may search a member of the Forces or the property in his immediate possession

(i) when so requested by the authorities of the Forces;

(ii) if he is taken into custody under paragraph 2 of this Article, to the extent necessary to disarm him or to seize any item constituting proof of the criminal offence for which he is taken into custody.

(b) The provisions of the fourth sentence of paragraph 5 of Article 35 of the present Convention shall not be affected.



(c) The official quarters of a member of the Forces, or where there are none the residence occupied by him with permission of the authorities of the Forces, may not be searched by German authorities, except at the request of the authorities of the Forces. If such residence of the member of the Forces is not an installation, either his consent or that of the authorities of the Forces to the search shall be sufficient.

4. The German authorities shall notify the appropriate authorities of the Forces of the arrest of any person working in the service of the Forces.

5. The appropriate authorities of the Forces may

(a) arrest members of the Forces;

(b) take into custody a person who is subject to German criminal jurisdiction, without subjecting him to the ordinary routine or arrest, in order immediately to deliver him, together with any weapons or items seized, to the nearest appropriate German authorities

(i) when so requested by the German authorities;

(ii) in the following cases in which the German authorities are unable to act with the necessary promptness:

(1) when apprehended in *flagrante delicto* for the commission or attempted commission of a criminal offence against the Forces, their members, or the security, property or other legally protected rights (*Rechtsgüter*) of the Forces or their members; or

(2) if there is danger of flight, for the commission, or attempted commission, of a criminal offence under Sections 1 to 9 inclusive of Annex A to the present Convention;

(iii) within an installation, when there are reasonable grounds to believe (*dringender Verdacht*) that his presence is unauthorised or that he has committed a criminal offence within the installation.

6. Where the authorities of the Forces believe that a person subject to German jurisdiction has been guilty of a criminal offence under Sections 1 to 11 inclusive of Annex A to the present Convention, the following special provisions shall apply:

(a) If the suspect is to be arrested by the German authorities, the authorities of the Forces shall, if practicable, be given timely notification and may designate investigators to be present at the arrest. The latter may also be present at any searches or seizures undertaken in connection with the investigation. The authorities of the Forces shall have the exclusive right for a period not to exceed twenty-one days following the arrest, to conduct interrogations of the suspect concerning any offences of which he is suspected and related matters. For this purpose their investigators shall have access to the suspect at any time. An official designated by the German investigating authority may be present at the interrogation, of the conduct of which such authority shall be given timely notification. The German investigating authority shall take appropriate measures to prevent any prejudice to the course of justice (*Verdunkelungsgefahr*) and shall refrain from any investigation activity of its own unless the investigators of



the Forces request such investigation. During the interrogation by the investigators of the Forces, it shall, at their request, make the applications provided for in the German Code of Criminal Procedure and shall see to it that the judicial decisions suited to promote the investigation proceedings are issued and that the measures ordered in such decisions are carried out. At the conclusion of the investigation by the investigators of the Forces, in any event not later than twenty-one days after the arrest, the interrogations and the other investigation proceedings shall be continued by the German investigating authority. The investigators of the Forces shall deliver to the German investigating authority all evidence collected in the course of the investigation, unless security considerations require otherwise;

(b) If the suspect is not a German, the provisions of sub-paragraph (a) of this paragraph shall apply, subject to the following proviso.

The appropriate authorities of the Forces may take the suspect into their own custody for a period of twenty-one days and may themselves conduct all interrogations and other investigations. For the judicial measures required for this period, a member of the Forces authorised to exercise judicial functions shall be assigned to the competent German courts as an assessor not entitled to vote.

7. The authorities of the Forces may search a person who is subject to German jurisdiction or the property in his immediate possession

(a) when so requested by the German authorities;

(b) if he is taken into custody under sub-paragraph (b) of paragraph 5 of this Article, to the extent necessary to disarm him or to seize any item constituting proof of the criminal offence for which he is taken into custody.

8. The constitutional immunities of the Federal President and the members of the German Federal and Land legislative bodies shall not be impaired by the provisions of this article.

#### ARTICLE 8—PROCEDURE AND CO-OPERATION IN CRIMINAL PROCEEDINGS

1. The authorities of the Forces shall take such measures against members of the Forces who have committed criminal offences against German interests as they would take if such offences had been committed against the Power concerned, the Forces or their members, or their property.

2. The German authorities shall take such measures against persons subject to their criminal jurisdiction for criminal offences against the Forces, their members, or the property of the Forces or members as they would take if such offences had been committed against the Federal Republic, its Laender or its nationals, or their property.

3. (a) The authorities of the Forces shall at the request of the German authorities notify the latter of the arrest of any person for a criminal offence described in paragraph 1 of this article.

(b) The German authorities shall at the request of the authorities of the Forces notify the latter of the arrest of any person for a criminal offence described in paragraph 2 of this Article.

4. Trial of a member of the Forces for a criminal offence described in paragraph 1 of this Article, committed within the Federal territory



shall be held within that territory except in cases of military exigency. When military exigency requires that the trial of such an offence be held outside the Federal territory, the authorities of the Forces shall so inform the German authorities, with particulars of the time and place of trial. The German authorities shall be entitled to have observers present unless security considerations require otherwise and shall be informed of the result of the trial.

5. The German authorities and the authorities of the Forces shall extend mutual co-operation in the prosecution of criminal offences under paragraphs 1 and 2 of this Article. Unless security considerations require otherwise, they shall permit representatives of the appropriate authorities to attend the trial and, within the applicable regulations, grant them the opportunity to present their views on questions of law and fact. In addition to the cases provided under German criminal procedure, the Forces or their members shall also have the right to appear as co-prosecutors (*Nebenklaeger*) before German courts, to the extent that the criminal offence is directed against the security or the property of the Forces or their members or is one of the offences listed in Annex A to the present Convention. On request the German authorities and the authorities of the Forces shall inform each other of an intent to initiate, to refrain from initiating, or to discontinue a prosecution or disciplinary proceeding and of the decision.

## *Section II: Non-Criminal Proceedings*

### ARTICLE 9—JURISDICTION AND PROCEDURE IN NON-CRIMINAL PROCEEDINGS

1. Subject to the provisions of the present Convention and any other applicable agreement, German courts and authorities shall exercise jurisdiction over members of the Forces in non-criminal proceedings.

2. Unless proceedings in non-criminal matters are commenced on the application of a member of the Forces, the German courts and authorities will serve upon the member concerned the written documents or court order whereby the proceedings are commenced even if such service is not required by German law and regulations.

3. The German courts and authorities shall grant members of the Forces sufficient opportunity to safeguard their rights. If a member of the Forces is unable because of official duties or authorised absence to protect his interests in a non-criminal proceedings in which he is a participant, the German court or authority shall at his request suspend the proceeding until the elimination of the disability, but for not more than six months. The existence of the disability shall be established (*glaubhaft machen*) by the member of the Forces. A certificate of the ground and duration of the disability issued by the appropriate authorities of the Power concerned shall be given due weight by the court of authority. The proceeding need not be suspended if the interests of the member of the Forces can adequately be protected by a person authorized to represent him before a court or other representative entitled to safeguard his rights.

4. The members of the Forces shall enjoy the same rights as Germans in respect to the right to free judicial assistance (*Armenrecht*). They shall not be obligated to post security for costs of any kind in



cases where Germans are free from such obligation. Certificates required to establish the right to free judicial assistance shall be issued by the appropriate consular authorities after they have made the necessary investigations.

ARTICLE 10—ENFORCEMENT OF JUDGMENTS, DECISIONS AND ORDERS

1. The authorities of the Forces shall, insofar as service regulations permit, take all appropriate measures to aid in the enforcement of judgments, decisions and orders (vollstreckbare Titel) of German courts and authorities in non-criminal proceedings.

2. If the enforcement of such judgment, decision or order is to be effected within an installation of the Forces, the German court or authority shall request the authority of the Forces responsible for the administration of the installation to enforce or permit the enforcement of the judgment, decision or order. The authorities of the Forces shall, if possible, comply with the request. The authorities of the Forces shall deliver to the appropriate German authority property taken by themselves for satisfaction of the judgment, decision or order.

3. Property of a member of the Forces which is certified by the appropriate authority of the Forces to be needed by him for the fulfilment of his official duties shall be free from seizure for the satisfaction of a judgment, decision or order, together with other property, tangible and intangible, which under German law is not subject thereto.

4. The personal liberty of a member of the Forces shall not be restricted by a German court or authority in a non-criminal proceeding, whether to enforce a judgment, decision or order, to compel an oath of disclosure, or for any other reason.

5. No payment due to a member of the Forces from his Government shall, except to the extent permitted by the laws and regulations of the Power concerned, be subject to any attachment, garnishment or other form of execution ordered by a German court or authority.

*Section III: Provisions Common to Criminal and Non-Criminal Proceedings*

ARTICLE 11—PRESENCE IN COURT. WITNESSES. SERVICE OF PROCESS

1. The authorities of the Forces shall, unless military exigency requires otherwise, secure the attendance of members of the Forces whose presence is required by a German court or authority, provided that such appearance is compulsory under German law. If military exigency prevents such attendance, the authorities of the Forces shall furnish a certificate stating the basis and duration of such disability.

2. German courts and authorities shall, in accordance with the provisions of German law, secure the attendance of persons whose presence as witnesses or experts is required by a service tribunal or other authority of the Forces.

3. The provisions of paragraphs 1 and 2 of this Article shall apply *mutatis mutandis* to all proceedings requiring the production of evidence.

4. Subject to the provisions of the present Convention or any other applicable agreement, the privilege and immunities of witnesses and



experts before German courts or authorities, and service tribunals or authorities of the Forces, shall be those accorded by the law of the court, tribunal or authority concerned. Appropriate consideration shall also be given to the privileges and immunities which the witness or expert would have before a German court if he is not a member of the Forces, or if he is a member of the Forces before a service tribunal of the Power concerned.

5. The authorities of the Forces shall permit, or themselves effect, the service of process upon any person inside an installation, and upon members of the Forces. In all other cases service shall be made or permitted by the appropriate German courts or authorities.

6. Service by German courts and authorities on members of the Forces shall not be effected by publication or advertisement.

#### ARTICLE 12—OBSTRUCTION OF JUSTICE

Perjury, attempts to obstruct justice, any other criminal offenses and contempts, committed before or against a German court or authority or a service tribunal or authority of the Forces, and failure to comply with process duly served in accordance with Article 11 of the present Convention shall be dealt with by the court or authority having criminal jurisdiction or disciplinary authority over the person concerned, according to its own law, as if the act had been committed before or against its own courts or authorities.

#### ARTICLE 13—ATTORNEYS

1. Nationals of any Power concerned and German attorneys shall not be hindered from acting as defence counsel before service tribunals in accordance with the rules and regulations prescribed for such service tribunals.

2. A person admitted to practice as an attorney in the country of one of the Powers concerned may, in proceedings in which a member of the Forces is involved, in association with a German attorney who is authorized to represent the member of the Forces in such proceedings, appear before German courts to make statements (*Ausfuehrungen*).

3. Except as provided in paragraphs 1 and 2 of this Article, foreign nationals may act as legal consultants, and appear before German courts, in the Federal territory only in accordance with the provisions of German law.

#### ARTICLE 14—EXCLUSION OF PUBLIC. TRANSFER OF PROCEEDINGS

The provisions of Section 172 of the German Judicature Act on the exclusion of the public from hearings of criminal and non-criminal proceedings, and of Section 15 of the German Code of Criminal Procedure on the transfer of criminal proceedings to a court of a different district, shall be applied *mutatis mutandis* in cases before German courts or authorities where there is a threat to the security of the Forces or their members.



## ARTICLE 15—DISCLOSURE OF INFORMATION

1. Subject to the provisions of paragraph 3 of this Article,
  - (a) no German court or authority shall, in any proceeding before it, require or allow any person to disclose information which would or might prejudice the security of the Forces or the Power concerned, except with the consent of the appropriate authority of the Forces or the Power concerned;
  - (b) no court or authority of the Forces shall, in any proceeding before it, require or allow any person to disclose any German state or official secret, except with the consent of the appropriate German authority.
2. If during proceedings it appears that the disclosure of such information or secret might result, the court or the authority, unless it is decided to dispense with the disclosure, shall, before hearing or dealing with such information or secret, request a written decision of the appropriate authority as to whether the consent required by paragraph 1 of this Article will be given. The consent will not be refused if, under the terms of the present Convention or any other agreement between the parties, the giving of information to the appropriate courts or authorities is required.
3. The provisions of this Article shall not be applied in such a manner as to limit the constitutional rights of a party to a proceeding to testify or make a factual or legal statement on his own behalf.

## ARTICLE 16—OFFICIAL ACTS

1. Whenever, in a criminal or non-criminal proceeding before a German court or authority, it becomes necessary to determine whether the act or omission which is the subject of the proceeding occurred in the performance by the person concerned of official duty for the Forces, the German court or authority shall suspend the proceeding and shall promptly notify the authorities of the Forces, stating the facts of the case. The appropriate authority of the Forces shall investigate the case and within twenty-one days after receipt of the notification transmit to the German court or authority a certificate describing the scope of the official duties of the person concerned at the relevant time and place. The certificate shall be signed by the highest ranking representative of the Forces having personal knowledge of the matter. The authorities of the Forces shall take appropriate measures to ensure that the certificate is compiled conscientiously as to form and content. After receipt of the certificate, but no later than twenty-one days after receipt by the authorities of the Forces of the notification, the proceeding shall be continued.
2. The authorities of the Forces may also submit such certificate to a German court or authority without having received a notification from such court or authority.
3. Such certificate shall be evidence only on the scope of official duties of the person concerned and shall be conclusive to this extent. The person who issued such certificate may, however, be called as a witness to explain or amplify its contents; and further, the provisions of this paragraph shall not be applied in such manner as to limit the constitutional rights of a party to a proceeding to testify or make



a factual or legal statement on his own behalf. The German court or authority shall give to the fact that the act or omission constituted the performance of official duty such legal weight and effect as it is entitled to under German law.

4. The provisions of this Article shall not apply to cases under Article 8 of the Finance Convention.

### PART THREE—ADMINISTRATION AND SUPPORT

#### *Section I: Rights and Obligations*

##### ARTICLE 17—MOVEMENT

1. The Forces and their members shall be entitled to enter, move within the over and depart from the Federal territory with vehicles, vessels and aircraft owned or operated by them or on their behalf without restriction except as contained in the present Convention. The Federal Republic shall ensure to the Forces and their members the use of all German public highways and waterways, and the right to fly in the air space of the Federal territory and to depart from, land on and use the airfields at the disposal of the Forces. The Forces shall be entitled to such use of the air space and airfields in the Federal territory as may be necessary for the security of the Forces or for their training, provided that the use of civil airfields for training purposes shall be requested from the German authorities, such request having been approved by the highest Air Headquarters of the Forces concerned.

2. The operating rights of the German railways shall remain unaffected. Rolling stock owned, rented, or exclusively used by the Forces may be brought into, and taken out of, the Federal territory. It shall be accepted for movement by the Germany railways if it can be operated in general conformity with the traffic operating methods of the latter.

3. Unless otherwise provided in this Convention or in any other applicable agreement, German traffic laws, ordinances and regulations shall apply to the Forces and their members. Deviations from German traffic regulations shall be permissible to the Forces in cases of military exigency, with due regard to public safety and order. For railway traffic such deviations shall be permitted only by agreement between the Forces and the competent railway administration.

4. The vehicles, sea-going vessels and aircraft of the Forces or their members may be licensed or registered, and shall be provided with licence plates or other identification as appropriate, by the authorities of the Forces. Subject to the international regulations applicable in each case, the same provisions shall apply to inland watercraft of the Forces or their members, excluding craft owned by members of the Forces of 15 tons carrying capacity or over. In the case of licensing by German authorities, these authorities may collect the normal licence fee, which shall not include any form of taxation. The authorities of the Power concerned shall take adequate safety measures for, and shall ensure the technical supervision of, the vehicles, vessels and aircraft licensed by them and shall, where necessary, and at the request of the German authority, furnish the name and address of the owner of a vehicle, aircraft or vessel licensed by them.



5. The Forces shall with regard to their vehicles be exempt from all German regulations limiting axle loads or the total weights of vehicles. Vehicles owned or operated by the Forces or by their members shall be exempt from German laws, regulations or police measures requiring changes or additions in the construction, design or equipment of vehicles, such as markings, warning signals, brakes, lighting and direction indicators.

6. Documents issued by the appropriate authorities of the Power concerned to a member of the Forces which authorize him to operate vehicles, sea-going vessels or aircraft shall be valid in the Federal territory. Authorization to operate inland water vessels licensed by the Forces shall be governed by regulations of the Forces, which shall take due account of German, and, where applicable, international waterway regulations.

7. Members of the Forces shall use or permit to be used in the Federal territory private vehicles and aircraft belonging to them only if such vehicles or aircraft are insured against liability arising out of such use. The required insurance coverage, both in type and amount, shall be determined in accordance with German law. This insurance may, however, be effected with any insurance enterprise entitled to carry on such activity in the territory of the Power concerned and able under the exchange control regulations, according to a declaration of the Power concerned, to pay claims in the Federal territory and in the currency of the Federal Republic.

8. A Standing Commission shall be established, to be composed of representatives of the appropriate authorities of those of the Three Powers to which the provisions of this Article apply and of representatives of the authorities of the Federal Republic. The European Defence Community may be represented on this Commission. The duty of this Commission shall be to guarantee effective co-ordination between civil and military air activities.

9. All air traffic control and related communications systems developed and carried on by the Federal authorities and by the Forces shall be technically and administratively co-ordinated to the extent necessary to ensure air traffic safety and the common defence.

10. Permission for aerial photography by private individuals or civilian agencies, and the production and distribution of prints and negatives therefrom, shall be given by the German authorities, subject to security clearance by the authorities of the Forces. The methods of security clearance shall be determined by the Standing Commission.

#### ARTICLE 18—COMMUNICATIONS

1. The Forces shall have the right to establish and operate military post offices for the purpose of handling postal and telegraphic matter of the Forces and their members between themselves, with military post offices in other countries and with their home countries. Exchange offices between the military post offices and the Federal Post offices may be established. The location of these offices will be fixed in agreement between the competent authorities of the Federal Republic and of the Forces.

2. Furthermore, the Forces shall have the right to establish, operate and maintain their own communications (which include telecommuni-



cations and radio facilities), and broadcasting for the members of the Forces, within their installations and in their military vehicles, vessels and aircraft, insofar as they are required for military purposes.

3. Outside their installations the Forces shall normally use the German public telecommunications facilities. The Forces may, however, erect, operate and maintain communications facilities of their own outside their installations.

(a) so far as compellingly necessary on the basis of military security;

(b) so far and so long as the German authorities are not in a position to erect, or in understanding with the Forces forego the erection of, the necessary facilities;

(c) temporarily for military exercises.

The authorities of the Forces shall make use of the rights given them under the second sentence of this paragraph, in cases under subparagraph (a) only after appropriate consultation, and in cases under subparagraph (b) only in agreement, with the German authorities.

4. The facilities erected and operated by the Forces themselves may be interconnected with the public network of the Federal Republic if they are technically and operationally compatible with it. The places of inter-connection shall be as mutually agreed.

5. The provisions contained in Annex B to the present Convention shall apply with respect to radio frequencies used by radio stations which are operated or used by the Forces. These provisions shall enter into force at the same time as the present Convention.

6. The members of the Forces may, without payment of a fee and without individual authorization, erect and use wireless receiving apparatus.

7. Complete control of the cables identified as FK-12 and FK-41 lying within the Federal territory, including the associated equipment, shall be exercised by the authorities of the Power concerned.

#### ARTICLE 19—MANOEUVRES AND TRAINING EXERCISES

1. The Forces shall have the right to conduct manoeuvres and other training exercises throughout the Federal territory. When such manoeuvres or other exercises are carried out outside their installations, the Forces shall inform the competent German authorities in good time before the commencement of such manoeuvres and exercises. Any administrative measures required for the satisfactory execution of such manoeuvres or exercises shall, upon request of the Forces, be taken by the German authorities after reasonable previous consultation; provided that the Forces may co-operate in the carrying out of such measures.

2. The administrative measures taken by the German authorities shall be sufficiently broad to permit the Forces themselves to take such particular measures as may be necessary to the achievement of the military aim of the manoeuvres or exercises.

#### ARTICLE 20—DEFENSIVE WORKS AND MEASURES

1. Installations and works directly serving the purpose of defence, as well as safety installations, shall be erected or adapted by the Federal Republic in such amounts, areas and types as are needed for the



common defence. Where there is a special need for secrecy or security, the Forces themselves may erect or adapt such installations or works, provided that there is prior consultation with the Federal Government.

2. The Federal Government shall co-operate with the Forces in order to ensure that military and civil measures of protection necessary to meet special security requirements can be implemented by the Forces and the German authorities efficiently and without delay. It shall provide that the preparations necessary for the implementation of such measures of protection will be done in time and in a sufficient amount.

3. Measures taken under this Article shall be subject to the jurisdiction of the Arbitration Tribunal referred to in Article 9 of the Convention on Relations between the Three Powers and the Federal Republic of Germany, provided that publicly or privately owned property has been or will be seriously damaged thereby. Article 12 of the Charter of the Arbitration Tribunal shall apply to such measures provided that irremediable damage may be caused thereby to substantial values.

#### ARTICLE 21—RIGHTS OF THE FORCES RESPECTING INSTALLATIONS

1. Within and over their installations, the authorities of the Forces may take all the measures necessary for the accomplishment of their mission, provided that they shall observe German regulations in the fields of public health and safety, unless their own regulations in such fields prescribe equal or higher standards. Insofar as their own regulations in the fields of public health and safety do not prescribe such standards, and also in other fields, the authorities of the Forces may, except as otherwise provided in this Convention or in any other applicable agreement, apply their own regulations, provided that in so doing they do not endanger public health, safety and order outside the installations. They shall notify the German authorities in good time of the extent to which they are departing from German regulations in the fields of public health and safety.

2. Where the authorities of the Forces do not themselves intend to implement within their installations applicable German regulations, they shall reach agreements with the competent German authorities which take into account equally military requirements and the requirements of the German administration.

3. Where buildings are partly occupied by (im Besitz) the Forces, the parts so occupied shall not be regarded as installations for the purposes of this Article if they are used as dwellings for members of the Forces.

4. The German authorities shall, upon request of the Forces, supervise or restrict in the vicinity of installations building activities and the movement of persons, animals, all types of vehicles, vessels, aircraft and balloons to the extent necessary, in the interest of common defense, for the effective operation of such installations and their security.



## ARTICLE 22—INSTALLATIONS, ARCHIVES, DOCUMENTS, PROPERTY AND MAIL

Installations, archives, documents and, subject to the provisions of paragraphs 2 and 3 of Article 7 of the present Convention, property of the Forces and also mail of the Forces recognizable as such, and mail of members of the Forces which is sent through the postal systems of the Forces shall be immune from entry, search, seizure and censorship by the German authorities unless in any cases or category of cases such immunity is waived by the authorities of the Forces.

## ARTICLE 23—POLICE OF THE FORCES

1. The competent agencies of the Forces shall have the right to patrol on public ways, in places of public resort and on public transport in the Federal territory and to take action with respect to members of the Forces, in order to maintain order and discipline.

2. Their powers with respect to persons subject to German jurisdiction shall be determined in accordance with Article 7 of the present Convention.

## ARTICLE 24—IDENTIFICATION OF MEMBERS OF THE FORCES

1. The members of the Forces shall be provided by the appropriate authorities of the Power concerned with identity documents which shall indicate the name, date of birth and rank of the holder and shall bear a serial number and, unless the holder is in uniform, a photograph.

2. Dependents shall be designated as such in their identity documents.

3. Members of the Forces shall give proof of their identity upon the request of the competent German authorities.

4. Subject to the provisions of Article 25 of the present Convention, identity documents furnished in accordance with paragraph 1 of this Article shall constitute conclusive proof of identity.

5. When members of the Forces are travelling in groups under orders and military command, their uniforms shall be conclusive proof of identity.

6. When necessary, certification by the appropriate authorities of the Power concerned that a person is a member of the Forces within the definition of Article 1 of the present Convention shall be conclusive proof thereof.

## ARTICLE 25—FRONTIER AND ALIEN CONTROL

1. Members of the Forces, other than dependents, who properly identify themselves in accordance with Article 24 of the present Convention, shall be entitled to unrestricted entry into, and exit from, the Federal territory. Dependents shall be entitled to such entry and exit upon producing a valid passport indicating their status as such.

2. The authorities of the Power concerned may, at frontier points specified by them, participate in the control of travel documents of members of the Forces.



3. Members of the Forces shall not be subject to German legislation concerning the registration and control of aliens.

4. Members of the Forces shall not acquire the right to permanent residence or domicile in the Federal territory. If a person ceases to be a member of the Forces but remains in the Federal territory, the appropriate authorities of the Forces shall notify the German authorities as soon as possible. The general police provisions concerning aliens shall apply to such persons.

#### ARTICLE 26—ENTRY AND EXIT

The German authorities shall co-operate with the authorities of the Three Powers, within the scope of the Basic Law and international agreements on travel, in preventing the entry into, or the exit from, the Federal territory of persons whose entry or departure is regarded by the authorities of any one or more of the Three Powers as prejudicial to the security of the Forces. For the purposes of German laws and regulations respecting entry into, and exit from, the Federal territory, the security of the Federal Republic shall be deemed to include the security of the Forces.

#### ARTICLE 27—EXTRADITION

1. The Power concerned shall decide on requests for extradition of members of the Forces.

2. The German authorities shall give written notification to the appropriate authorities of the Three Powers when they receive a request for extradition from a Government other than that of one of the Three Powers, unless such extradition is prohibited by German law.

3. Within twenty-one days after receipt of notification under paragraph 2 of this Article, the authorities of any one or more of the Three Powers may notify the German authorities of their objection to such extradition on grounds of security.

4. If the German authorities nevertheless intend to grant such extradition, the matter shall be submitted for decision concerning the justification for the objections made under paragraph 3 of this Article to an arbitrator, who shall not be of the nationality of any of the parties to the disagreement or the extradition request and shall be appointed by the President or a Vice-President of the Arbitration Tribunal referred to in Article 9 of the Convention on Relations Between the Three Powers and the Federal Republic of Germany. His decision shall be binding on all parties and shall not be subject to review.

5. Until the period of twenty-one days under paragraph 3 of this Article has expired and until the disagreement has been decided by the arbitrator, the German authorities shall not carry out the extradition without the consent of the authorities of the objecting Power or Powers.

#### ARTICLE 28—RIGHT OF PRESENCE IN THE FEDERAL TERRITORY

1. The Power concerned shall have the exclusive right to remove members of the Forces from the Federal territory.



2. If the authorities of the Three Powers are of the opinion that the presence of a person in the Federal territory endangers their security, they may recommend that the German authorities take in respect of his presence such measures as are permitted by the Basic Law.

#### ARTICLE 29—BEARING OF ARMS

1. The authorities of the Forces shall have the right to prescribe the conditions under which persons employed in the service of the Forces may bear and use arms within an installation or so far as their duties necessitate the bearing of arms. The regulations about the use of arms shall conform to the German law on "self-defence" (Notwehr).

2. The persons referred to in paragraph 1 of this Article must be in possession of a firearms certificate issued by the authorities of the Forces. Firearms certificates may be issued only to persons against whose reliability there are no valid objections. A suitably endorsed identity card shall also be considered a firearms certificate.

#### ARTICLE 30—HEALTH AND SANITATION

1. The authorities of the Forces and the German authorities shall extend to each other the fullest co-operation in matters concerning health and sanitation, particularly with respect to the control of communicable diseases; such co-operation shall extend to the exchange of information and statistics.

2. In the vicinity of installations of the Forces the German authorities shall, at the request of the authorities of the Forces, take such health and sanitation measures as are necessary to protect the health of the Forces. When the German authorities are not in a position to take action adequate to meet military requirements with respect to the disposal of waste, insect and rodent control, or water purification in areas outside cities, the Forces may themselves take such measures. Standards for the purification of water in cities where Forces are stationed will be agreed upon by the authorities of the Forces and the municipal authorities to guarantee a water supply free from contamination to the Forces.

#### ARTICLE 31—DEATHS AND BURIALS

1. Subject to the provisions of any special agreement, the authorities of the Forces shall have the right to establish and maintain cemeteries and to arrange for burial, disinterment and movement of the bodies of members of the Forces in compliance with adequate hygienic regulations to be determined by themselves.

2. The authorities of the Power concerned may take charge and dispose of the body of a member of the Forces who dies in the Federal territory, and may dispose of his personal property after the debts of the deceased person incurred in the Federal territory and owing to persons not members of the Forces have been settled. This provision shall not apply if the deceased person was ordinarily resident in the Federal territory.



## ARTICLE 32—FOREIGN CURRENCY

1. The authorities of the Power concerned shall have the right to import, export, possess and, subject to the provisions of paragraph 2 of this Article, distribute to the members of the Forces any non-German currency or instruments or scrip expressed in the currency of the Three Powers.

2. The authorities of the Power concerned may pay their members in instruments or scrip expressed in the currencies of the Power concerned, or in German currency, or in their own national currency; provided that they shall introduce a system of payment in their own national currency only after consultation with the Federal Government.

3. In order to avoid endangering German foreign exchange interests, the authorities of the Power concerned, in co-operation with the Federal Government, shall take appropriate measures against any abuse of the provisions of paragraphs 1 and 2 of this Article.

4. The members of the Forces shall not be subject to German foreign exchange legislation, provided that the authorities of the Forces in co-operation with the German authorities take appropriate measures, on the basis of the German foreign exchange legislation currently in force, to safeguard German foreign exchange interests.

## ARTICLE 33—TAXATION

1. (a) Goods which are subject to excise tax shall be exempt from the tax if they are procured by the Forces directly from a German manufacturer. This shall not apply to the excise taxes on tobacco, coffee, tea, sugar, alcohol, sparkling wines and gasoline, nor to the levy imposed on coal to subsidize coal miners' housing. The exemption shall apply only if the goods are procured by the official procurement agencies of the Forces for the use of, or consumption by, the Forces or their members.

(b) When procuring excisable goods on which exemption is claimed in accordance with sub-paragraph (a) of this paragraph, the Forces shall certify that the goods, which shall be described exactly as to type and quantity, are intended for the exclusive use of, or consumption by, the Forces or their members.

(c) The treatment of the excise tax on beer shall be dealt with in a Special Agreement.

2. (a) Goods delivered to, and services for, the Forces which are procured by official procurement agencies of the Forces shall be exempt from the turnover tax, provided that such goods or services are for the use of, or consumption by, the Forces or their members. Suppliers shall exclude the turnover tax in the calculation of the price of such goods or services.

(b) Where, in the case of goods and services referred to in sub-paragraph (a) of this paragraph, payment is made in the currency of the Power concerned, the supplier shall, on application, be entitled to a refund of the turnover tax already paid on the goods to the extent of the export refund under paragraph 16 (2) of the Turnover Tax Law, in the version of 1 September 1951, as well as to the exemption accorded in sub-paragraph (a).



Such refund shall be deducted from the price of the goods or services.

(c) Where the exemption from or refund of, the turnover tax is claimed under sub-paragraph (a) or (b) of this paragraph, the official procurement agency of the Forces shall certify to the seller that the goods or the service is for the exclusive use of, or consumption by, the Forces or their members.

(d) Deliveries to the Forces shall be deemed to be wholesale deliveries.

3. (a) The tax treatment of the Forces and their members shall be dealt with in a Special Agreement to the extent that provision is not made in the present Convention.

(b) The Federal Government undertakes to take all necessary measures to ensure that, until the Special Agreement referred to in sub-paragraph (a) of this paragraph enters into force, the Forces and their members shall be protected from suffering taxes for which exemption would be provided in that Agreement if it were to enter into force.

#### ARTICLE 34—CUSTOMS TREATMENT OF THE FORCES

1. Subject to the provisions of the present Convention and of any other agreement between the Federal Republic and the Three Powers or any one of them, the Forces shall in principle be exempt from German customs legislation and control and German regulations governing the movement of property into or out of the Federal territory.

2. The Forces may bring into, and take out of, the Federal territory their property and property intended for their use or that of their members, without payment of any duties or other Federal taxes, and without restrictions or prohibitions. Goods purchased in the Federal territory by the Forces against payment in the currency of their country shall, for the purposes of this Article, be treated as exported from the Federal territory and imported by the Forces. The Forces shall observe German regulations designed to preserve the health of humans, animals, and plants.

3. The Forces shall issue official certificates of authorization in respect of their imports and exports. The form of these certificates shall be established in consultation with the Federal Government.

4. Consignments of the Forces carried in their official transport shall be subject to customs control by the authorities of the Forces. The latter shall ensure the enforcement and adequacy of such control and the safe arrival of these consignments at destination. The authorities of the Forces shall inform the German customs authorities of the measures taken to implement the provisions of this paragraph.

5. Consignments of the Forces carried in transport other than their official transport shall be subject to normal German customs control but shall not be delayed thereby. However, consignments sealed by the authorities of the Forces or a customs administration shall be exempt from internal examinations; this provision shall not be deemed to prevent German customs officials from examining the seals and, if necessary, adding German seals. Discrepancies discovered as a result of these controls shall be notified to the authorities of the Forces.



6. Additionally to the exemptions contained in Article 35 official couriers of the Forces shall be exempt from control by German customs authorities with regard to their courier luggage. They shall be accorded preferential treatment to ensure that they are not delayed.

7. Military units moving operationally under orders across the frontiers of the Federal territory shall be exempt from control by German customs authorities, provided that the officer in charge declares in writing that all practicable measures have been taken to ensure that neither the unit nor the members thereof carry goods in contravention of the provisions of this Article or of Article 35 of the present Convention. If practicable, prior notification of troop movements shall be given to the appropriate German customs authorities by the authorities of the Forces. These provisions shall not apply to frontier crossings made during military exercises or manoeuvres.

8. Imports and exports of goods in aircraft owned or operated by the Forces or on their behalf which land at, or take off from, a military airfield shall be subject to customs control by the authorities of the Forces. If such aircraft land at a civil airfield, they shall be subject to customs control by the authorities of the Forces; the German customs authorities shall notify the authorities of the Forces without delay. If commercial aircraft land at a military airfield, the German customs administration shall be notified by the authorities of the Forces, which shall take all necessary measures to ensure that any goods carried shall not enter the German economy before the German customs authorities have had the opportunity to clear them.

9. With the exception of the property referred to in paragraph 11 of Article 39 of the present Convention, the authorities of the Forces may dispose of movable property of the Forces in the Federal territory. Property disposed of for export to a purchaser not resident in the Federal territory shall not be subject to German export restrictions or export duties. The conditions under which the property referred to in this paragraph is disposed of shall be the subject to mutual agreement between the appropriate authorities of the Forces and the appropriate German authorities.

#### ARTICLE 35—CUSTOMS TREATMENT OF MEMBERS OF THE FORCES

1. Subject to the provisions of the present Convention and of any other applicable agreement between the Federal Republic and the Three Powers or any one of them, members of the Forces shall in principle be subject to German customs legislation.

2. The prosecution of customs violations, including the right of confiscation of goods, shall be solely within the criminal jurisdiction of the authorities of the Forces. The German procedure for administrative fines in respect of customs violations shall not apply to members of the Forces. German customs authorities shall have a right to goods confiscated by the Forces, as a result of customs violations by their members, to the extent necessary to recover tax debts on such goods due as the result of a civil action.

3. Members of the Forces shall be exempt from the provisions of German legislation covering the use of firearms by German customs officials.



4. Subject to the following provisions, members of the Forces shall be exempt from German import and export restrictions or prohibitions on imports and exports and from the payment of customs duties and other Federal taxes on goods moved by them for their personal or domestic use or consumption into, or out of, the Federal territory:

(a) The right of unaccompanied import by members of the Forces shall not apply to those rationed goods which the Forces sell or distribute to their members;

(b) The authorities of the Forces shall quantitatively restrict the import by their members in accompanied baggage of those rationed goods which they sell or distribute to their members;

(c) Accompanied and unaccompanied import of non-rationed goods shall be quantitatively restricted by the authorities of the Forces when they find, after considering the recommendations of the German authorities, that such goods are peculiarly the subject of customs violations;

(d) In order to certify to German customs authorities that non-rationed goods imported by members of the Forces through commercial channels, the German postal system, or in their accompanied baggage are for their personal or domestic use or consumption, the members of the Forces may obtain certificates from the authorities of the Forces, which shall be accepted as authorization to import in accordance with the terms of this Article;

(e) Members of the Forces shall observe German regulations designed to preserve the health of humans, animals and plants.

5. For the purpose of customs control of members of the Forces, the authorities of the Forces may provide officials at frontier crossing points at which substantial numbers of members of the Forces cross. The authorities of the Forces shall establish these points in consultation with the Federal government. At these points, the officials of the Forces, in co-operation with German customs authorities, shall carry out customs control of members of the Forces and their property. At all other crossing points members of the Forces shall be subject to normal customs control by the German authorities. The provisions of this paragraph shall also apply to the movement of members of the Forces between the Federal territory and Berlin.

6. Customs control of goods consigned to and by members of the Forces through postal or freight systems of the Forces shall be exercised by the authorities of the Forces at points established by themselves. German customs officials may be present during these controls.

7. Goods imported duty-free under the provisions of the present Convention may be disposed of in the Federal territory by members of the Forces to a person other than a member of the Forces only on prior notification to, and with the approval of, the appropriate German authorities; this provision shall, however, not apply to customary gifts of a personal or domestic nature in noncommercial quantities.

8. The authorities of the Forces shall take, within the framework of the present Convention, appropriate measures to restrain their members from committing offences against the fiscal, customs, and import and export regulations of the Federal Republic. They shall consider these factors—the recommendations of the Federal Government being taken into account—in the rationing of goods peculiarly subject to such violations. The rations established by the authorities



of the Forces shall not exceed the quantity reasonably required for personal consumption. The authorities of the Forces shall co-operate closely with German customs officials and law-enforcing agencies in combatting customs violations.

9. The authorities of the Forces shall notify German customs authorities of any violations to enable, if necessary, civil action to be taken against the violators. Similarly, the German customs authorities shall notify the authorities of the Forces of any customs violations involving their members. The German customs authorities shall notify the authorities of the Forces of property or currency seized from their members, and such property or currency shall be surrendered to the authorities of the Forces. Receipts shall be given by the German customs authorities to the members of the Forces for any property or currency detained.

10. Motor vehicles of members of the Forces which are intended for their personal use may enter and leave the Federal territory without payment of customs duties and without restrictions, on presentation of the registration certificate or other certificate issued by the authorities of the Forces certifying that the motor vehicle is owned by a member of the Forces and intended for his personal use. The authorities of the Forces shall, upon request by the German customs authorities, give information about such vehicles. Vehicles for commercial purposes shall be excluded from this preferential treatment.

11. The import of goods by members of the Forces for charitable disposal in the Federal territory shall be the subject of mutual agreement between the authorities of the Forces and the appropriate German authorities.

#### ARTICLE 36—ORGANIZATIONS AND ENTERPRISES SERVING THE FORCES

##### 1. Subject to the provisions of this Article

(a) non-German organizations of a non-commercial character organized by the Forces or the Power concerned for the benefit of the members of the Forces, or which serve the welfare of the Forces, may be assimilated in whole or in part to the Forces, after notification to the German authorities, which notification shall state that such organizations are in the service of the Forces;

(b) if such organization is a club, it may be assimilated only to the extent that it is part of the catering or sports arrangements of the Forces.

2. The Forces may make use of non-German commercial enterprises provided that their military needs can not be satisfied by German enterprises. Such enterprises may be assimilated to the Forces

(a) after notification to the German authorities, if they provide technical services under contract for the Forces, and

(b) in all other cases after consultation with the German authorities.

3. Employees of the organizations mentioned in paragraph 1 of this Article and of the enterprises mentioned in sub-paragraph (a) of paragraph 2 of this Article (other than Germans, and persons who are nationals neither of one of the Three Powers nor of another Sending State and have been engaged in the Federal territory) may similarly be assimilated to members of the Forces.



4. Assimilation to the Forces and their members shall be permitted only so far as the organizations, enterprises or employees are exclusively serving the Forces and to the extent that such assimilation is necessary for their contribution to the accomplishment of the defence mission of the Forces. The extent of such assimilation shall be stated in the notification or during the consultation. It may be restricted through further understandings to the necessary measure. The organizations, enterprises and employees may not engage in private commercial activities. The authorities of the Forces shall co-operate with the Federal Government in taking appropriate measures against misuse of these rights.

5. The assimilation of commercial enterprises referred to in subparagraph (b) of paragraph 2 of this Article shall be limited to the following:

(a) Licensing and registering of motor vehicles in accordance with Article 17 of the present Convention;

(b) Accommodation in accordance with Article 38;

(c) The right, under Article 34, to bring into the Federal territory, free from customs duties and other Federal taxes, goods to be sold to the Forces or to be placed at the disposal of the Forces;

(d) Exemption from taxation under paragraphs 1 and 2 of Article 33 of the present Convention insofar as deliveries and other services by such undertakings to the Forces are concerned; in all other respects taxation shall be governed by the Special Agreement referred to in Article 33;

(e) Use of transportation and communication facilities of the Forces in accordance with Articles 17 and 18;

(f) Exemption, in respect of their services to the Forces, from German legislation on trade licensing and foreign companies;

(g) Issuance of the necessary foreign exchange permits to enable them to carry out their functions, and the right to possess and use military scrip.

6. If employees of the organizations and enterprises under paragraphs 1 and 2 of this Article are also members of the Forces as defined in subparagraph (b) of paragraph 7 of Article 1 of the present Convention, the Forces may limit the extent to which the provisions of the present Convention apply to such employees. In this connection they shall take into consideration the recommendations of the German authorities.

7. The number of employees of the organizations and enterprises serving the Forces may not be increased by more than 100 per cent of the number present at the entry into force of the present Convention, except in agreement with the German authorities.

## *Section II: Support*

### ARTICLE 37—SCOPE OF OBLIGATIONS

1. So far as is necessary to fulfill the defence purposes of the Forces, the Federal Republic undertakes to ensure that the requirements of the Forces and their members within the Federal territory are satis-



fied, subject to the provisions of the present Convention, or any other related Convention, in the following fields:

- (a) Accommodation (Article 38);
- (b) Goods, materials and services, including public utilities (Articles 39 and 40);
- (c) Transport services (Article 41);
- (d) Communication services (Article 42);
- (e) Other public services (Article 43).

2. The Federal Republic shall ensure that such suitable civilian personnel as is necessary to meet the requirements of the Forces consistently with military needs will be made available to the Forces by the competent German agencies (Article 44).

3. In order to fulfill the obligations undertaken by the Federal Republic in paragraph 1 of this Article, the Federal Republic shall enact legislation adequate to assure the procurement of goods, materials and services, the provision of accommodation and the establishment of restricted areas.

4. Until the Federal legislation referred to in paragraph 3 of this Article enters into force, such obligations shall be fulfilled by the appropriate application, within the framework of the Basic Law, of the provisions of the following Laws so far as they deal with the power to requisition goods, materials, and services, to acquire accommodation and to establish restricted areas: the Law concerning Goods and Services for Reich Projects (Reichsleistungsgesetz) of 1 September 1939; the Law concerning the Provision of Land for the Purposes of the Wehrmacht of 29 March 1935; and the Law concerning the Restriction of Real Property for Reasons of Reich Defence (Schutzbereichsgesetz) of 24 January 1935. The application of the Reich Laws referred to in the first sentence of this paragraph shall not extend to the computation of claims for remuneration and compensation, which shall be made pursuant to paragraph 3 of Article 12 of the Finance Convention.

#### ARTICLE 38—ACCOMMODATION

1. The authorities of the Forces shall each present to the appropriate Federal authority their needs for accommodation in the form of periodical programmes and where necessary supplementary programmes. When the Forces of two or more Powers stationed or to be stationed in the same locality have competing requirements for accommodation, joint discussions will be held between them with the object of reaching agreed accommodation programmes; this shall also apply to armed forces of the European Defence Community if the latter agrees to participate in this procedure. Individually requests outside the programmes shall be kept to a minimum.

2. Programmes and individual requests agreed by the authorities of the Forces and the Federal authority shall be carried out by the appropriate German authorities after consultation with the authorities of the Forces and with particular regard to sites, standards and dates of availability. In such programmes, specific provision shall be made to meet any difficulties which may arise for the Forces from the operation of the provisions contained in the second sentence of paragraph 5 of this Article. Requirements of minor importance may



be arranged directly between the authorities of the Forces and the appropriate German regional authorities.

3. In case of disagreement between subordinate authorities of the Forces and the German regional authorities, the matter shall be referred to the Federal authority for further joint consultation with the authorities of the Forces.

4. The Forces shall continually review their accommodation requirements in order to ensure that these requirements remain within the minimum consistent with the size and duties of the Forces. Accommodation which is no longer required, or for which alternative accommodation satisfactory to the Forces is made available, shall be released by the Forces.

5. Special attention shall be paid to the release of accommodation to private individuals. Privately owned dwellings shall be released if they are not used by the Forces for any period of six consecutive months. The German authorities shall be entitled to make a request to the Forces that the release of specific accommodation be discussed with them.

6. At the time of the release of a requisitioned dwelling or hotel, all requisitioned movable property therein for which rental or hire is being paid shall also be released. When other requisitioned accommodation is released, the Forces will at the same time release requisitioned movable property therein for which rental or hire is being paid, except in cases in which the continued use of such property is requisite to the accomplishment of the Forces' defence mission. In such cases, the authorities of the Forces shall consult the German authorities. Such movable property shall also be released prior to the release of accommodations provided that it is no longer required for use by the Forces or alternative property satisfactory to the Forces is made available by the German authorities. Objects of art and antiques shall be released by the Forces according to procedures to be agreed.

7. In implementing the first accommodation programme, if no comparable alternative accommodation is available in the same area, the Forces shall, for six months after the entry into force of this Convention, be entitled to the first option on such publicly owned accommodation as becomes available under the provisions of Chapter Eleven of the Convention on the Settlement of Matters Arising out of the War and the Occupation. This shall not apply to accommodation in the Bonn Enclave.

8. If accommodation occupied by the Forces, such as target ranges, training areas and airfields, is temporarily not being used by the Forces, it may be made temporarily available to the Federal Republic at its request, on condition that its renewed use by the Forces is not impaired thereby.

#### ARTICLE 39—GOODS, MATERIALS AND SERVICES

1. Procurement of goods and materials in the Federal territory for the Forces and their members against Deutsche Mark or other currencies shall be within periodical programmes, except that the quantities so procured may exceed the quantities settled in such programmes by not more than 10 per cent or by such larger quantity



as may be agreed by the German authorities. These periodical programmes shall take into account building materials as required for the implementation of Article 40 of the present Convention. The programmes shall not include minor procurements made in accordance with the appropriate regulations of the Forces.

2. A Joint Supply Board shall be established, to be composed equally of representatives of the appropriate authorities of those of the Three Powers to which the provisions of this Article apply and of representatives of the Federal Republic. The European Defence Community may be represented on this Board. The Board shall be responsible for establishing by agreement periodical programmes for the procurement of the requirements of the Forces, and of the European Defence Community if it is represented, and for resolving any difficulties which may arise in the course of the implementation of these programmes.

3. The requirements of the Forces for inclusion in the periodical programmes shall be presented to the Joint Supply Board as early as possible and at least two months before the commencement of the period concerned. The authorities of the Forces shall notify the German authorities, as early as possible, in advance of any major changes in requirements for public utilities (gas, water, electricity, sewage).

4. In arriving at a programme, the Joint Supply Board shall take into account essential defence, export and civilian requirements. The Board shall determine and list goods, materials and services which are in short supply. The Board may require detailed classification of items which require significant quantities of goods, materials or services so listed.

5. The procurement of goods, materials and services, including building services, within the scope of paragraph 1 of this Article, shall be undertaken either directly by the authorities of the Power concerned in accordance with their normal contract procedure or, at their request, by the German authorities. The Federal Republic agrees to take appropriate measures to ensure that these requirements are accorded such priority over domestic and export non-defence requirements as is necessary and appropriate to ensure their timely supply to the Forces.

6. When the authorities of the Power concerned intend to place orders, within the agreed programmes, by direct procurement for goods, materials or services listed as being in short supply, they shall inform the German authorities. If the German authorities should find that, for reasons of supply or capacity, certain firms should be invited to bid, they shall nominate such firms within two weeks at the latest. The authorities of the Power concerned shall take these recommendations into due account in arriving at a final choice of contractors.

7. Information copies of all orders placed directly by the authorities of the Power concerned within the agreed programmes shall be forwarded to the German authorities.

8. When the requirements of the Forces for goods, materials and services are satisfied through procurement by the German authorities, the authorities of the Power concerned shall be entitled to specify their requirements in all respects, including specifications, delivery



periods and any other essential conditions. The German authorities, in co-operation with the authorities of the Power concerned, shall ensure that these conditions are met to the satisfaction of the Forces. The authorities of the Power concerned may reject any tender for good and cogent reasons, of which the German authorities shall be informed. Control of manufacturing shall be carried out by the German authorities; representatives of the Power concerned are entitled to participate in inspection. The acceptance of the fulfilment of a contract shall be given to the contractor by the German authorities only with the written consent of the authorities of the Power concerned.

9. The Forces, subject to the provisions of paragraph 1 of this Article, and also members of the Forces, may purchase goods and services locally for their own use under conditions not less favourable than those obtaining generally for residents of the Federal Republic.

10. All periodical requirement programmes for goods, materials and services for the support of the Forces, which have been initiated by the authorities of the Power concerned before the date of entry into force of the present Convention and in respect of which requirements are still outstanding at that date, shall remain valid and shall have effect as programmes established by the Joint Supply Board.

11. Goods procured from Reichsmark or Deutsche Mark occupation cost or mandatory expenditures funds, or from that part of the defence contribution of the Federal Republic which serves to support the Forces, shall not be removed from the Federal territory except such as are required for military purposes for the support of the Forces, or unless it is such military equipment as is customary for military units to take with them on moving. Where the authorities of the Forces decide that they no longer require such goods, they shall be transferred to the German authorities, unless a different arrangement for the disposal of such goods is agreed between them.

#### ARTICLE 40—BUILDING SERVICES

1. When it has been agreed that a portion of the accommodation programmes submitted under Article 38 of the present Convention shall be met by new construction, the authorities of the Forces shall inform the appropriate German authorities, at intervals related to the programmes under Article 39, of their building programmes, furnishing if possible details of the character, extent, location and required completion date of construction for each project and, as far as becomes necessary, supplementary details and alterations. The German authorities shall, without delay, communicate their comments to the authorities of the Forces. If necessary, joint consultation shall thereupon take place for the purpose of achieving an agreement which will enable the Forces to meet their defence mission.

2. The implementation of the building projects to be paid for from the German defence contribution shall be carried out by the German building authorities according to German legal provisions and established building regulations. The authorities of the Forces shall establish and notify to the German authorities their requirements as to specifications, shall participate in the planning, the invitation and opening of tenders and the letting of contracts and may reject any



tender for good and cogent reasons, of which the German authorities shall be informed. The authorities of the Forces may inform themselves of the progress of the building operations at any time, inspect building records and demand information. The authorities of the Forces may at any time inspect the building operations but shall exercise supervision of the project through the German building authorities. Where the authorities of the Forces require subsequent deviation from contracts, their requirements shall be communicated to the German authorities in writing. The acceptance of the fulfillment of a contract shall be given to the contractor by the German authorities only with the written consent of the authorities of the Forces.

3. Repairs and maintenance shall be carried out by German authorities if requested by the authorities of the Forces in accordance with mutual agreements. The provisions of paragraph 2 of this Article shall apply *mutatis mutandis*.

4. This Article shall not apply to minor building projects, to building orders which have been placed before the entry into force of the present Convention or to building orders as to which special understandings have been reached. The definition of minor building projects shall be fixed by bilateral agreement.

#### ARTICLE 41—TRANSPORT SERVICES

1. The Forces shall be entitled to use the German road, rail, water and air transport facilities for the transportation of persons, animals and materials into, throughout and from the Federal territory. In this respect the Forces shall enjoy such preferential treatment as is necessary for the satisfactory fulfillment of their defence mission and as is consistent with the reasonable reconciliation of the requirements resulting therefrom and the essential civilian and defence requirements of the Federal Republic. They shall be entitled to make contracts for transport services with transport undertakings.

2. Where the services required from public transport undertakings are in excess of those freely obtainable under generally applicable transport regulations, they shall be requested from the German authorities by the authorities of the Forces competent for transport matters for a major area. The same shall apply to transport services required from non-public transport undertakings, if these services are either in excess of routine services, or are required during periods of known short supply of transport as evidenced by restrictions placed on the furnishing of such transport services to the civilian economy. Details and procedure shall be regulated by special agreements.

3. The provisions of the following technical agreements and working arrangements, including documentation, between the Forces and the German transport authorities, as amended by mutual agreement, shall remain applicable until their dates of expiration:

(a) The three Tariff and Working Arrangements between the German Federal Railways and the United States, British and French Forces of 31 March 1950, 1 April 1950 and 1 September 1950 respectively;

(b) The two agreements between the United States and British Armies and the Deutsche Schlafwagen- und Speisewagen-Gesellschaft of 30 April 1950 and 19 December 1950 respectively;



(c) The agreements between the Allied Forces and the Vereinigte Tanklager und Transportmittel G. m. b. H. and the Federal Ministries for Transport and Finance of 13 September 1951, 17 December 1951 and 27 February 1952.

The provisions of these agreements shall be subject to review and modification at the request of either the Federal Republic or the Three Powers prior to their termination dates where they are inconsistent with the present Convention. If any of these agreements is not renewed by mutual consent beyond its present period of validity, timely agreement shall be reached upon the respective conditions of service to be effective after its termination, which conditions shall be consistent with the needs of the Forces and the conditions of service of their members in the performance of the defence mission of the Forces.

4. The Forces shall give the German transport authorities as much advance notice of their military movements requirements as practicable.

5. The Forces shall, upon the entry into force of the present Convention, have the right to retain any transport facilities and equipment hitherto reserved for their use, subject to joint re-examination of such use under the principles of the present Convention.

6. Members of the Forces shall be entitled to use German transport facilities within the scope of the generally valid traffic regulations.

7. Where the existing transport facilities and equipment available are not sufficient to meet the requirements of the Forces, the German authorities shall, on request approved by the highest Headquarters of the Forces concerned, extend or modify existing facilities or equipment already available or construct new facilities or equipment to the extent required. Paragraph 4 of this Article shall apply *mutatis mutandis*.

8. The Forces shall be entitled to undertake the construction of transport facilities within their installations insofar as public safety and order outside such installations are not thereby prejudiced. Prior to the execution of such work appropriate consultations shall take place with the German authorities.

9. The Forces may conclude agreements with the highest appropriate Federal authority for the official use, by the authorities of the Forces responsible for the arrangement of military movements, of German specialised telecommunications systems, provided that such use does not prejudice the operation of those systems.

#### ARTICLE 42—COMMUNICATIONS SERVICES

1. The public services of the posts and telecommunications system of the Federal Republic shall be available to the Forces and their members. In this respect the Forces shall enjoy such preferential treatment as is necessary for the satisfactory fulfilment of their defence mission and is consistent with the reasonable reconciliation of the requirements resulting therefrom and the essential civilian and defence requirements of the Federal Republic. Until 30 June 1953 the conditions of service effective on the entry into force of the present Convention shall be applicable. These conditions of service shall be subject to review and modification at the request of either the Three



Powers or the Federal Republic prior to 30 June 1953, where these conditions are inconsistent with the present Convention. Timely agreement shall be reached upon the conditions of service to be effective after 30 June 1953, which conditions shall be consistent with the needs of the Forces and the conditions of service of their members in the performance of the defence mission of the Forces.

2. Upon demand, the Forces shall receive for permanent or temporary purposes telecommunications circuits for their exclusive use under the conditions set forth in paragraph 1 of this Article.

3. In case the German public post and telecommunications facilities are not sufficient to meet the requirements of the Forces, the German authorities will, upon request by authorised representatives of the highest commanding officers of the Forces, enlarge the existing facilities or erect new facilities to the extent necessary. The Forces shall give the German authorities as much advance notice of these requirements as practicable. Such facilities shall be operated by the Federal Republic unless otherwise mutually agreed.

4. The provisions of Article 48 of the present Convention shall apply *mutatis mutandis* to communications facilities and equipment hitherto used by the Forces.

5. Communications facilities within Germany belonging to the Forces may be made available to the Federal Republic when such facilities are available as determined by the Forces. The conditions of service referred to in paragraph 1 of this Article shall apply *mutatis mutandis* to such facilities.

#### ARTICLE 43—OTHER PUBLIC SERVICES

1. The Forces and their members are entitled to use or receive German public and administrative services not specifically provided for elsewhere in the present Convention, to the extent required by the defence mission of the Forces or normally received by the residents of the Federal Republic.

2. The authorities of the Forces and the German authorities shall co-operate in the meteorological and cartographical fields in order to fulfil the defence requirements of the Forces.

#### ARTICLE 44—LABOUR

1. The Forces shall notify the competent German authorities as soon as possible of their requirements for civilian personnel and shall normally obtain labour through these authorities. The services of the competent German authorities shall be made available to members of the Forces for obtaining suitable civilian labour.

2. Germans who are working in the service of the Forces shall be subject to all obligations arising from the membership of the Federal Republic in the European Defence Community. They shall only be engaged on services of a non-combatant character including civilian guard duties.

3. German labour law, as applicable to the Federal authorities, with the exception of tariff regulations, shall apply to work with the Forces except as otherwise provided in this Article. When necessary, a Mixed Commission, established under paragraph 10 of this Article, shall, at the request of the highest authorities of the Forces, examine



whether and to what extent particular provisions of German labour law are inconsistent with the military needs of the Forces. The findings of this Commission shall be duly taken into account by the appropriate German authorities in accordance with Article 3 of the present Convention.

4. Work with the Forces shall not be deemed employment with the German public service.

5. The German authorities, in agreement with the authorities of the Forces, shall

(a) establish the terms and conditions of employment, including wages, salaries and job groupings (which shall serve as the basis for individual working agreements), and may conclude tariff agreements;

(b) regulate payment procedures.

6. The authorities of the Forces have, in connection with the labour referred to in this Article, the rights of engagement, placement, training, transfer with the consent of the worker, dismissal and acceptance of resignations.

7. The authorities of the Forces shall determine the number of jobs required and classify such jobs in accordance with the job groupings established under sub-paragraph (a) of paragraph 5 of this Article. The individuals to fill such jobs shall be provisionally classified by the authorities of the Forces into the appropriate wage and salary groups. The latter classification shall be subject to the approval of the competent German authorities. Such approval shall be deemed to have been given, unless the German authorities notify an objection within two weeks of the date of receipt of notification of the provisional classification. In such cases the appropriate classification shall be determined by consultation between the authorities of the Forces and the German authorities. The remuneration for the period covered by the provisional classification shall be paid according to the final classification. The worker shall be so informed at the time of the provisional classification.

8. Claims of individual workers arising out of work with the Forces shall be lodged against the Federal Republic. They shall be subject to German labour jurisdiction. However, in disputes arising out of dismissals on security grounds, a Mixed Commission, established under paragraph 10 of this Article, shall, upon request of the designated authorities of the Forces, determine whether the dismissal with or without notice was justified; the decision shall be binding on German labour courts. Such request shall be made without delay and at the latest within one month after notification to the authorities of the Forces of the filing of the suit. The individual concerned shall be entitled to make a factual or legal statement before the Commission.

9. For the protection of their interests, those engaged on work with the Forces may set up Works Councils, whose task shall be to make suggestions and to present grievances or complaints to the appropriate authorities of the Forces. Such Councils shall be entitled to be heard by the appropriate authorities of the Forces. Grievances or complaints not resolved in this manner may be referred to the competent German authorities for further discussion with the authorities of the Forces.



10. The Mixed Commissions referred to in paragraphs 3 and 8 of this Article shall be composed equally of representatives of the appropriate authorities of those of the Three Powers to which the provisions of this Article apply and of representatives of the Federal Republic. They shall decide by majority vote; they shall establish their own rules of procedure, which may include provisions for action by sub-committees. If a Commission or sub-committee can not reach a decision by majority vote, the Power or Powers concerned and the Federal Republic shall appoint an individual who shall participate in the decision.

#### ARTICLE 45—CIVILIAN SERVICE UNITS

1. The Forces shall have the right to maintain civilian service organizations consisting of non-German nationals.

2. The existing civilian service organizations consisting of Germans

(a) shall be disbanded in co-operation with the competent authorities of the Federal Republic not later than at the end of the two year period commencing on the entry into force of the present Convention. The Three Powers and the Federal Republic shall enter into discussions before the end of this period with a view to taking measures to ensure that the strength and effectiveness of the Forces shall not be impaired as a result of such disbandment;

(b) shall not be required to serve outside the Federal territory.

3. Article 44 of the present Convention shall apply except as otherwise provided in this Article.

4. Members of the civilian service organizations may receive housing and subsistence as a part of their remuneration. When at work, they may be required to wear uniform working clothing when appropriate.

5. The terms and conditions of employment, within the meaning of sub-paragraph (a) of paragraph 5 of Article 44 of the present Convention, in effect on the entry into force of the present Convention shall as soon as possible be reviewed and made broadly uniform by agreement between the authorities of the Forces and the German authorities.

6. The authorities of the Forces shall carry out the classification of the members of the civilian service organizations; they shall inform the appropriate German authorities of such classification and shall give due consideration to any suggestions for amendment made by the latter.

#### ARTICLE 46—HUNTING AND FISHING

1. The Federal Republic shall take such steps as lie within its competence in order to grant and have granted to the members of the Forces special hunting and fishing privileges on Federal lands. It shall use its good offices with the Laender and all German authorities and political sub-divisions to do the same in respect of other public lands. In granting such special privileges the following general principles shall be observed.

2. The members of the Forces shall

(a) observe German regulations on hunting and fishing, in particular as regards proper hunting and fishing methods;



(b) comply with German game plans (Abschussplaene);

(c) for cloven-hoofed game (Schalenwild) always be accompanied by a licensed hunter or forester, for whose services reasonable fees shall be paid;

(d) pay a combined annual fee for hunting, the amount of such fee to be determined in agreement with the Federal or Land authorities as appropriate. Such fee shall be in place of all other applicable taxes, fees, charges and expenses. In fixing such fee, due regard shall be paid to the circumstances under which members of the Forces live in the Federal territory;

(e) in like manner pay a reasonable fee for fishing privileges.

3. The Forces shall have the right to issue hunting and fishing licenses but only to members of the Forces familiar with German hunting and fishing legislation, and, in the case of hunting, with the use of hunting weapons. The members of the Forces shall respect private property rights.

4. The Federal authorities shall take all measures within their power to stimulate voluntary arrangements with members of the Forces where private property rights are involved, and shall encourage invitations to the members of the Forces on the part of owners or lessees of private preserves or on the part of holders of corresponding rights.

5. Contracts pertaining to hunting and fishing rights in effect at the entry into force of the present Convention shall remain in force if such contracts have been freely made under German law and provide for payment for such rights at the then market price. All other rights relating to hunting and fishing heretofore requisitioned or reserved shall expire not later than one month after the entry into force of the present Convention.

6. The rights and obligations of the Forces in this field may be more closely defined in special agreements between the Forces and the Federal or the Land authorities.

#### ARTICLE 47—BERLIN

1. Goods, materials and services provided in accordance with the present Convention may be used and enjoyed by the armed Forces of any Power concerned, stationed in Berlin.

2. The Powers specified in paragraph 2 of Article 1 of the present Convention, which are members of the European Defence Community, shall enjoy the rights and assume the obligations referred to in paragraph 8 of Article 17, to the extent that the Standing Commission on coordination provided for in that Article deals with questions concerning air traffic to and from Berlin.

#### ARTICLE 48—CONTINUATION OF EXISTING SUPPORT

1. Where goods, materials, services or accommodations have been requisitioned by the authorities of the Power concerned or procured on occupation costs or mandatory expenditures budgets before the date of entry into force of the present Convention and continue thereafter to be required by the Forces, they shall be deemed to be requisitioned with binding legal effect for a period of one year from that date



under the provisions of the applicable legislation referred to in paragraphs 3 and 4 of Article 37 of the present Convention.

2. Where the goods, materials, services or accommodation are required for the purposes of the Forces and their members beyond the period fixed in paragraph 1 of this Article, the Federal Republic shall guarantee their continued availability in accordance with the procedure of the applicable Federal legislation.

#### PART FOUR—TRANSITIONAL AND FINAL PROVISIONS

##### ARTICLE 49—TREATY ESTABLISHING THE EUROPEAN DEFENCE COMMUNITY

The rights and obligations of the Signatory States under the present Convention shall be without prejudice to, and shall not be prejudiced by, the provisions of the Treaty Establishing the European Defence Community. Conflicts between the rights and obligations of the Signatory States under the present Convention and under the Treaty Establishing the European Defence Community shall be resolved by agreement between the Signatory States of the present Convention and of the Treaty Establishing the European Defence Community.

##### ARTICLE 50—TRANSITIONAL PROVISIONS FOR THE ARMED FORCES OF THE EUROPEAN DEFENCE COMMUNITY

1. Pursuant to the provisions of Annex C to the present Convention, certain provisions of this Convention shall apply for a transitional period to the armed Forces stationed in the Federal territory of such of the Three Powers and such other Sending States as are members of the European Defence Community. The provisions of Annex C to the present Convention shall also apply to the armed Forces, other than those referred to above, which the European Defence Community shall send to the Federal territory during the transitional period referred to in that Annex.

2. The provisions of paragraph 1 of this Article shall not affect the application of the provisions of paragraph 3 of Article 3 and of Article 47 of the present Convention, which shall continue to apply to any of the Three Powers which may be a member of the European Defence Community.

##### ARTICLE 51—REVIEW

Without prejudice to the provisions of Article 10 of the Convention on Relations between the Three Powers and the Federal Republic of Germany the present Convention may be reviewed at the request of one of the Signatory States at any time after two years after its entry into force.

IN FAITH WHEREOF the undersigned representatives duly authorized thereto by their respective Governments have signed the present Convention, being one of the related Conventions listed in Article 8 of the Convention on Relations between the Three Powers and the Federal Republic of Germany.



DONE at Bonn this twenty-sixth day of May, 1952 in three texts, in the English, French and German languages, all being equally authentic.

For the United States of America:	For the United Kingdom of Great
s/ DEAN ACHESON	Britain and Northern Ireland:
	s/ ANTHONY EDEN

For the French Republic:	For the Federal Republic of Ger-
s/ ROBERT SCHUMAN	many:
	s/ ADENAUER

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## ANNEX A TO THE CONVENTION ON THE RIGHTS AND OBLIGATIONS OF FOREIGN FORCES AND THEIR MEMBERS IN THE FEDERAL REPUBLIC OF GERMANY

(Article 3, paragraph 3)

### *PENAL PROVISIONS FOR THE PROTECTION OF THE THREE POWERS, THEIR FORCES AND THE MEMBERS OF THE FORCES*

#### TITLE I—TREASON IN MILITARY MATTERS

##### SECTION 1

1. For the purpose of this Title, the term “military secrets” shall mean facts, objects, conclusions and discoveries, in particular writings, drawings, models or formulas, including codes, or information concerning them, which are kept secret out of consideration for the security of one of the Three Powers or of the Forces, as defined in Article 1 of the Convention on the Rights and Obligations of Foreign Forces and Their Members in the Federal Republic of Germany.

2. For the purpose of this Title, treason shall be deemed to be committed by anyone who willfully lets an unauthorised person have access to a military secret or makes such secret public and thereby endangers the security of one of the Three Powers or of the Forces.

##### SECTION 2

1. Whoever betrays a military secret shall be punished by imprisonment with hard labour (Zuchthaus).

2. Whoever procures a military secret in order to betray it shall be punished by imprisonment with hard labour (Zuchthaus), not exceeding ten years.

3. Whoever, without authority, procures or attempts to procure a military secret or whoever, having otherwise without authority obtained possession of such secret, fails to report it forthwith to the competent authority of the Forces or, in the event that the secret is an object, fails to deliver it on demand shall be punished by imprisonment.

4. Paragraph 3 of Section 100 of the Criminal Code, as amended by the Law of 30 August 1951 (Bundesgesetzblatt Teil I Seite 739), shall not apply to military secrets.



## SECTION 3

1. Whoever wilfully lets an unauthorized person have access to a military secret or makes it public and thereby, through negligence, endangers the security of one of the Three Powers or of the Forces shall be punished by imprisonment.

2. Whoever, through negligence, lets an unauthorized person have access to a military secret to which the offender had access by virtue of his office or position in the service, or by virtue of a commission received from an official agency and thereby endangers the security of one of the Three Powers or of the Forces shall be punished by imprisonment not exceeding two years. The offence shall be prosecuted only upon authorization of that Power concerned or of those Forces whose security has been endangered.

## SECTION 4

1. Whoever, with intent to prejudice the security of one of the Three Powers or of the Forces, procures, collects, publishes or communicates to another person information concerning military affairs of the Forces, or for such purpose operates an information service, or hires others to engage in, or support, such activities shall be punished by imprisonment. The attempt is punishable.

2. In especially serious cases, the penalty shall be imprisonment with hard labour (Zuchthaus) not exceeding five years.

## SECTION 5

1. Whoever, with intent to procure without authority a military secret, or to collect information on military matters for the purpose of prejudicing the security of one of the Three Powers or of the Forces (paragraph 2 and 3 of Section 2; Section 4) enters, or loiters in the vicinity of, military installations, war vessels or aircraft of the Forces shall be punished with imprisonment.

2. The term "military installations" shall include, but not be limited to, areas restricted for security reasons by official notice and industrial establishments where supplies required for the Forces are produced, repaired or stored.

## SECTION 6

Whoever, without permission of the competent authority, takes photographs within an area restricted for security reasons by official notice, takes photographs of a building in which arms or other supplies required for the Forces are produced or stored, or of any other military installation, make sketches of such objects, or puts such photographs or sketches into circulation shall be punished by imprisonment or a fine or both.

## SECTION 7

1. Whoever establishes or maintains stations the object of which is supplying information within the meaning of Sections 1 and 4 with a government, a party, any other association or an institution outside the Federal territory and Berlin (West), or with a person



acting for such government, party, association or institution shall be punished with imprisonment.

2. Whoever, acting for a government, a party, any other association or an institution outside the Federal territory and Berlin (West), establishes relations of the type described in paragraph 1 of this Section with another person or maintains such relations shall be punished in like manner.

#### SECTION 8

1. Whoever, with intent to cause or promote a war, an armed enterprise or measures of compulsion against one of the Three Powers or the Forces, establishes or maintains relations with a government, a party, any other association or an institution outside the Federal territory and Berlin (West), or with a person acting for such government, party, association or institution, shall be punished by imprisonment with hard labor (Zuchthaus).

2. If the offender acts with intent to cause or promote such other measures or plans of a government, a party, any other association or an institution outside the Federal territory and Berlin (West) as are designed to prejudice the security of one of the Three Powers or of the Forces, the penalty shall be imprisonment. The attempt is punishable.

3. Whoever, with intent to cause or promote one of the measures or plans specified in paragraphs 1 and 2 of this Section, makes or circulates untrue or grossly distorted statements of facts shall be punished by imprisonment. The attempt is punishable.

4. In especially serious cases under paragraph 1 of this Section the penalty may be imprisonment with hard labour (Zuchthaus) for life; in especially serious cases under paragraphs 2 and 3, the penalty may be imprisonment with hard labour (Zuchthaus).

#### SECTION 9

1. For acts punishable under this Title there may be imposed:

In addition to the penalties under Section 2 and paragraph 1 of Section 8, a fine of unlimited amount;

In addition to the penalties under Sections 3, 4 and 7 and paragraphs 2 and 3 of Section 8, a fine;

In addition to imprisonment of not less than three months imposed for a wilfully committed offence, for the period of one to five years, incapacity to hold public office and the loss of the right to vote and to be elected as well as the loss of rights acquired through public election;

In addition to imprisonment of any type imposed under Sections 2, 4, 5, 7 and 8, authorization to place the convicted person under police supervision.

2. Section 86 of the Criminal Code, as amended by the Law of 30 August 1951, shall apply *mutatis mutandis*.



## TITLE II—SABOTAGE

## SECTION 10

1. Whoever wilfully damages, destroys, renders unserviceable or displaces military equipment of the Forces or an installation intended for defence within the meaning of Article 4 of the Convention on Relations between the Three Powers and the Federal Republic of Germany and thereby wilfully endangers the security of the Forces or their readiness for action shall be punished by imprisonment for not less than three months. In serious cases, imprisonment with hard labour (Zuchthaus) shall be imposed.

2. Whoever wilfully manufactures or delivers in a defective manner military equipment or a defence installation or raw material reserved for defence and thereby wilfully endangers the security of the Forces or their readiness for action shall be punished in like manner.

3. The attempt is punishable.

4. Whoever acts in a grossly negligent manner and thereby endangers negligently the security of the Forces or their readiness for action shall be punished by imprisonment.

## SECTION 11

Whoever unlawfully obstructs or disturbs the Forces or individual members of the Forces in the exercise of their official duties and thereby wilfully endangers the security of the Forces or their readiness for action shall be punished by imprisonment, unless a more severe penalty is provided for the act by other provisions.

## TITLE III—UNDERMINING THE WILLINGNESS TO SERVE AND THE DISCIPLINE OF THE FORCES

## SECTION 12

1. Whoever influences members of the Forces with intent to undermine their willingness to serve with the Forces shall be punished by imprisonment.

2. The attempt is punishable.

3. In especially serious cases, imprisonment with hard labour (Zuchthaus) not exceeding five years may be imposed.

## SECTION 13

1. Whoever induces a member of the Forces to desert or facilitates the desertion of a member of the Forces shall be punished by imprisonment for not less than three months.

2. The attempt is punishable.

3. In especially serious cases, imprisonment with hard labour (Zuchthaus) not exceeding five years may be imposed.

## SECTION 14

Whoever solicits or incites a member of the Forces to disobey a superior shall be punished by imprisonment not exceeding two years.



## TITLE IV—VILIFYING THE FORCES

## SECTION 15

Whoever publicly vilifies the Forces or maliciously and deliberately exposes them to contempt shall be punished by imprisonment.

## TITLE V—APPLICATION OF PROVISIONS OF THE GERMAN CRIMINAL CODE IN FAVOUR OF THE FORCES

## SECTION 16

The following provisions of the Criminal Code shall apply *mutatis mutandis* in favour of the Forces:

(a) Sub-paragraph 2 of paragraph 1 and paragraph 2 of Section 96 to acts directed against the national symbols of the Forces;

(b) Sections 113, 115, and 116—to resistance, riot and unlawful assembly, if these offences are committed against the Forces, their soldiers, officials or such of their employees as were summoned to assist them;

(c) Section 115—to coercion committed against the Forces, their soldiers and officials;

(d) Sections 120, 121, 122b and 347—to acts against the detention of prisoners held by the Forces or committed upon their orders to an institution;

(e) Sections 123 and 124—to trespass committed against the peace of the premises of the Forces which are assigned to public service and traffic;

(f) Section 132—to falsely impersonating a soldier or an official of the Forces and to unauthorized exercise of official functions of such persons;

(g) Section 333—to bribing soldiers or officials of the Forces or such of their employees as have been formally bound to conscientious fulfilment of their duties under general or special instructions of a superior authority.

## ANNEX B TO THE CONVENTION ON THE RIGHTS AND OBLIGATIONS OF FOREIGN FORCES AND THEIR MEMBERS IN THE FEDERAL REPUBLIC OF GERMANY

(Article 18, paragraph 5)

## PROVISIONS ON RADIO FREQUENCIES

1. For the purpose of these provisions

(a) the term “radio station” shall be determined by Article 1 of the Radio Regulations annexed to the International Telecommunication Convention, Atlantic City, 1947;

(b) “security frequencies” are those frequencies used solely by the Forces for military and related purposes, including broadcasts for members of the Forces, but not for propaganda purposes;

(c) “security bands” are those frequency areas of the radio spectrum used solely by the Forces for military and related purposes, including broadcasts for members of the Forces, but not for propaganda purposes;



(d) "mixed bands" are those frequency areas of the radio spectrum which are used by the Forces for military and related purposes, including broadcasts for members of the Forces, but not for propaganda purposes, and in which at the same time civil radio stations may be operated under specified conditions.

2. The radio stations of the Forces shall only be operated on the frequencies defined in sub-paragraphs (b) to (d) inclusive of paragraph 1 of these provisions and in conformity with the provisions of Article 47 of the International Telecommunication Convention, Atlantic City, 1947, or such provisions as may replace them.

3. A Frequency Committee is hereby established, to be composed of representatives of the appropriate authorities of those of the Three Powers to which the provisions of Article 18 of the present Convention apply and of representatives of the authorities of the Federal Republic. The European Defence Community may be represented on the Frequency Committee. The Frequency Committee shall make its decisions by unanimous vote.

4. Security frequencies, security bands and mixed bands, including the technical conditions to be fixed in the mixed bands pursuant to sub-paragraph (d) of paragraph 1 of these provisions, which are required for the radio stations of the Forces, and the modifications in the frequencies allocated or assigned to the Forces on the entry into force of the present Convention, shall be fixed by the Frequency Committee. The members of the Frequency Committee shall co-ordinate all frequency allocations as far as necessary to avoid harmful interference. Monitoring services shall be available to the Frequency Committee. Monitoring reports containing information on frequencies defined in sub-paragraphs (b) to (d) inclusive of paragraph 1 shall be transmitted to international bodies only as agreed by the Frequency Committee. Information on civil frequencies shall be available to the Frequency Committee. No frequency allocations will be made and no operations permitted which shall interfere either with the frequency allocations in effect on the entry into force of the present Convention or with the frequency allocations made by the Frequency Committee in accordance with this paragraph.

5. If at international conferences problems are raised for which the Frequency Committee is competent, the German representatives shall take into adequate consideration the decisions, if any, made by the Frequency Committee and use all their influence to protect the frequency bands and frequencies which are within the competence of the Frequency Committee.

## ANNEX C TO THE CONVENTION ON THE RIGHTS AND OBLIGATIONS OF FOREIGN FORCES AND THEIR MEMBERS IN THE FEDERAL REPUBLIC OF GERMANY

(Article 50 paragraph 1)

### *TRANSITIONAL PROVISIONS FOR THE ARMED FORCES OF THE EUROPEAN DEFENCE COMMUNITY*

As from the entry into force of the Treaty Establishing the European Defence Community, the Powers mentioned in paragraphs



2 and 3 of Article 1 of the present Convention which are members of the European Defence Community will assume, in the following manner, only those rights and obligations referred to below, which arise out of the present Convention and its Annexes:

(a) Until 31 March 1953, the rights and obligations arising out of Article 46;

(b) Until 30 June 1953, the rights and obligations arising out of paragraph 1, and to the extent that they deal with the satisfaction of the needs of the Forces paragraphs 2 and 4 of Article 3, paragraphs 1, 2 and 3 of Article 32, Article 33 to the extent that it deals with tax immunities of the Forces, and Articles 36, 37, 38, 39, 40, 41, 42, 44, 45 and 48;

(c) As a transitional measure, until a date to be fixed in each case in agreement with the Federal Republic, but not later than 30 June 1953, the rights and obligations arising out of Articles 4, 17, 18, 19, paragraphs 1 and 3 of Articles 20, 21, 34, 35 so far as it relates to transfers in the course of military service, and 43;

(d) Until the entry into force of Federal criminal legislation for the protection of the armed Forces of the European defence Community, the rights and obligations arising out of paragraph 3 of Article 3, and Annex A.



## AGREEMENT ON THE TAX TREATMENT OF THE FORCES AND THEIR MEMBERS

The UNITED STATES OF AMERICA, the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND and the FRENCH REPUBLIC, of the one part, and the FEDERAL REPUBLIC OF GERMANY, of the other part, AGREE AS FOLLOWS:

### ARTICLE 1—TAX TREATMENT OF THE FORCES

1. The Forces (which expression in this Agreement shall have the meaning given in paragraph 5 of Article 1 of the Convention on the Rights and Obligations of Foreign Forces and Their Members in the Federal Republic of Germany, hereinafter referred to as the “Forces Convention”) shall be exempt from taxes which are levied in accordance with German taxation legislation in effect on the entry into force of the present Agreement, except as otherwise provided in the present Agreement.

2. Customs duties and other taxes on imports and exports of the Forces are dealt with in Article 34 of the Forces Convention; excise taxes on the purchase by the Forces of goods in the Federal Republic are dealt with in paragraph 1 and turnover tax on deliveries to, and services for, the Forces in paragraph 2 of Article 33 of that Convention.

3. Tax exemption in accordance with paragraph 1 of this Article shall not apply, to the extent that taxes are due as a result of commercial trading by the Forces in the Germany economy nor to property used for this purpose, nor shall it apply to the excise tax on goods manufactured by the Forces in Germany, to the tax on Bills of Exchange, or to the Transportation Tax.

4. The liability of the Forces to German taxes on the acquisition and ownership of real property shall be dealt with in a special agreement, in the event that the Forces in the future acquire real property.

5. The treatment of the Forces in respect of taxes which may be introduced after the entry into force of the present Agreement shall be the subject of special agreements.

### ARTICLE 2—TAX TREATMENT OF MEMBERS OF THE FORCES

1. Subject to the provisions of this or any other applicable agreement between the Signatory States, “members of the Forces” (which expression in this Agreement shall have the meaning given in paragraph 7 of Article 1 of the Forces Convention) shall be liable to taxes levied in accordance with existing German taxation legislation provided, however, that this provision shall not deprive a member of the Forces of any benefits which exist by reason of an intergovernmental agreement with the Federal Republic and which he could otherwise claim.



2. If, after the entry into force of the present Agreement any law is enacted in the Federal Republic concerning new direct taxes, or levies which have the effect of direct taxes, its application to members of the Forces shall be the subject of a special agreement between the Signatory States, which shall be concluded without delay.

3. For the basis of tax liability under German law

(a) a person shall not be deemed to have acquired residence or domicile in the Federal territory by reason of his presence as a member of the Forces therein. This shall not apply in respect of the insurance tax insofar as concerns the payment of an insurance premium to an insurer who has his normal place of business in the Federal territory. Further, the fact that no residence is established in the Federal territory shall not mean that members of the Forces are to be regarded as foreign purchasers for the purpose of the Turnover tax legislation;

(b) movable property, whatever its origin, situated in the Federal territory by reason of the presence of its owner as a member of the Forces, and intended for his personal or domestic use, shall be deemed not to be situated in the Federal territory. In the case of motor vehicles, this provision shall apply only when they bear registration plates issued by the Forces.

4. Additionally to the exemption from taxation conferred by paragraph 3 of this Article, members of the Forces shall be exempt from all German taxes and levies on payments which they receive as remuneration for their official activities with the Forces in the Federal territory. Further, they shall enjoy the taxation benefits which are granted by German taxation legislation to military personnel.

#### ARTICLE 3—BEER TAX

1. Beer which is procured by the Forces directly from a German manufacturer shall be exempt from excise tax. The exemption from taxation shall apply only to purchases by the official procurement agencies of the Forces for consumption by the Forces or their members.

2. Beer which the Forces or their members bring into the Federal territory under the provision of Articles 34 and 35 of the Forces Convention shall be exempt from excise tax.

3. Whenever the Forces procure beer, they shall certify that the beer, which is to be described exactly as to type and quantity, is intended exclusively for consumption by the Forces or their members.

#### ARTICLE 4—TAX TREATMENT OF ORGANIZATIONS AND ENTERPRISES SERVING THE FORCES

1. Except as may otherwise be provided in special agreements between the Signatory States, the tax exemptions contained in Articles 1 and 2 of the present Agreement shall apply to the organizations and enterprises, and their employees, referred to in Article 36 of the Forces Convention; provided, however, that they shall apply to the enterprises referred to in sub-paragraph (b) of paragraph 2 of that Article with the following exceptions:

- (a) taxation of their employees;
- (b) taxation on their income and profits;
- (c) taxation on their business property in the Federal territory.



2. The tax exemption contained in Article 3 of the present Agreement shall apply only to those organizations referred to in paragraph 1 or Article 36 of the Forces Convention whose service to the Forces includes the sale of beer to the members of the Forces.

#### ARTICLE 5—FINAL PROVISIONS

1. The present Agreement shall be ratified or approved by the Signatory States in accordance with their respective constitutional procedures. The instruments of ratification shall be deposited by the Signatory States with the Government of the Federal Republic of Germany.

2. The present Agreement shall enter into force, as between each of the Three Powers individually, of the one part, and the Federal Republic, of the other part, on the date when the Instruments of Ratification of the two parties shall have been deposited in accordance with paragraph 1 of this Article, or on the date of entry into force of the Forces Convention if such date shall be later.

3. The present Agreement shall be applied, as to any other Sending State within the meaning of paragraph 3 of Article 1 of the Forces Convention, at the same time as it enters into force as to that one of the Three Powers which has been named as the Power concerned in accordance with item (i) of sub-paragraph (b) of paragraph 4 of Article 1 of the Forces Convention.

4. The present Agreement shall be deposited in the archives of the Government of the Federal Republic of Germany, which will furnish each Signatory State with certified copies thereof and notify each State of the date of the entry into force of the present Agreement.

IN FAITH WHEREOF the undersigned representative duly authorised thereto by their respective Governments have signed the present Agreement.

DONE at Bonn this 26th day of May 1952 in three texts, in the English, French and German languages, all being equally authentic.

For the United States of America: For the United Kingdom of Great  
s/ DEAN ACHESON Britain and Northern Ireland:

For the French Republic:  
s/ ROBERT SCHUMAN

s/ ANTHONY EDEN  
For the Federal Republic of  
Germany:  
s/ ADENAUER







## FINANCE CONVENTION

### *Corrigendum to Finance Convention*

B 1. In Article 8, para 15, page 14 in the 5th line should be added the word “shall” between the words “and” and “not”.

2. In Article 13, para 3, page 20, in lines 5 and 8 the word “Power” should read “Powers”.

\* \* \*

The UNITED STATES OF AMERICA, the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and the FRENCH REPUBLIC, of the one part, and the FEDERAL REPUBLIC OF GERMANY, of the other part, AGREE AS FOLLOWS:

#### ARTICLE 1

1. In the present Convention the following terms shall, unless the context otherwise requires, have the same meanings as are given to them in Article 1 of the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany (hereinafter referred to as “the Forces Convention”):

The Federal territory;  
The Three Powers;  
Other Sending State;  
The Power concerned;  
Authorities of the Forces;  
Members of the Forces;  
Accommodation.

2. In the present Convention the following additional terms shall be given the meanings hereinafter indicated:

(a) Authorities of the Power concerned:

The authorities of the Power concerned, including the authorities of its Forces.

(b) The Forces:

The armed forces of the Three Powers and of other Sending States stationed in the Federal Territory; provided that the term shall, subject to the provisions of Article 8 of the present Convention, apply only until 30 June 1953 to the Forces stationed in the Federal territory of Powers concerned which have become contingents of the European Defence Force under the Treaty on the Establishment of the European Defence Community.

(c) Funds for the support of the Forces:

That part of the defence contribution of the Federal Republic which is to be made available to the Powers concerned to assist in meeting the costs of the Forces stationed in the Federal territory and their members.



## ARTICLE 2

The authorities of the Powers concerned and the German authorities shall extend to each other full cooperation and assistance to further the purposes of the present Convention, shall exchange all information available to any of them which may be necessary for the implementation of the present Convention, and shall afford to each other the services of any of their respective agencies to assist in the satisfactory implementation of the present Convention.

## ARTICLE 3

1. The Federal Republic undertakes to make a continuing annual contribution to the costs of defence. This contribution will represent a use of German national resources which, under the criteria of the North Atlantic Treaty Organization, is comparable to the use by other principal Western countries of their national resources for defence, including expenditures for defence measures outside Europe.

2. In respect of the period after 30 June 1953, the defence contribution of the Federal Republic shall be established under principles and procedures corresponding to those applicable to the establishment of defence expenditures of member countries of the North Atlantic Treaty Organization.

3. The undertakings in paragraphs 1 and 2 of this Article shall not result in a discrimination against the Federal Republic as compared to the other principal Western countries.

4. The Federal Republic shall fulfil its undertaking to contribute to defence by adhering and contributing to the European Defence Community in accordance with the agreements and arrangements pertaining to the Community and by assisting to meet the costs of the Forces of the Powers concerned which are not members of the European Defence Community, and the members of such Forces, in accordance with the provisions of paragraph 5 of this Article.

5. (a) The part of the Federal Republic's defence contribution which, subsequent to 30 June 1953, will be used to assist in meeting the costs of the Forces of the Powers concerned not members of the European Defence Community, and the members of such Forces, shall be established at the appropriate time by negotiations in which the Community, the Federal Republic and the Powers not members of the Community with Forces in the Federal territory shall participate.

(b) The part of the Federal Republic's defence contribution referred to in sub-paragraph (a) of this paragraph shall transit the budget of the European Defence Community; it shall not constitute an obligation of, or a charge to, the Community and shall not be subject to the control of the Community. The Community shall have no further obligation than to transmit the agreed amounts to the Forces, in a manner to be agreed by the Community, the Federal Republic and the Powers concerned.

## ARTICLE 4

1. The provisions of this Article shall apply from the entry into force of the present Convention until 30 June 1953.



2. The Federal Republic shall make an average monthly defence contribution of DM 850 million to be devoted exclusively to its contribution to the European Defense Community and for the funds for the support of the Forces.

3. Out of the sum of DM 850 million referred to in paragraph 2 of this Article, funds for the support of the Forces shall be made available according to the following schedule:

(a) For each of the six months following the date of entry into force of the present Convention and falling prior to 30 June 1953, an amount of DM 551 million;

(b) For each of the three months following the period specified in the preceding sub-paragraph and falling prior to 30 June 1953, an amount of DM 319 million;

(c) For each of the months following the period specified in the preceding sub-paragraph and falling prior to 30 June 1953, an amount to be determined by negotiation between the Federal Republic and the Three Powers.

Funds to be made available for one period of time may be utilized in other periods in accordance with the provisions of paragraph 5 of this Article. The Three Powers will be responsible for allocating or reallocating among the Powers concerned, after consultation with the Federal Government, the amounts made available under this paragraph. The provisions of Article 5 of the present Convention shall apply to the expenditure of these funds except to the extent that such funds are expended in accordance with sub-paragraph (a) of paragraph 5 of this Article.

4. The funds for the support of the Forces referred to in paragraph 3 of this Article shall transit the budget of the European Defence Community; they shall not constitute an obligation of, or a charge to, the Community and shall not be subject to the control of the Community. The Community shall have no further obligation than to transmit the agreed amounts to the Forces, in a manner to be agreed by the Community, the Federal Republic and the Powers concerned.

5. The only expenditures chargeable to the funds for the support of the Forces made available in accordance with paragraph 3 of this Article shall be

(a) amounts expended on payment authorizations issued after the entry into force of the present Convention to satisfy liabilities for accommodation, goods, materials or services procured or ordered before the entry into force of the present Convention by the authorities of the Powers concerned as a charge to occupation costs or mandatory expenditures;

(b) amounts expended on payment authorizations issued on or before 30 June 1953 under the Deutsche Mark budgets of the Powers concerned established for the period before that date in accordance with Article 5 of the present Convention. To the extent that the funds provided under paragraph 3 of this Article have not been fully expended to meet payment authorizations issued before 1 July 1953, they will remain available to the Forces until 30 June 1954 for the liquidation of liabilities outstanding on 1 July 1953 which are chargeable to the funds for the support of the Forces; and

(c) amounts expended for such other purpose as may be agreed between the Federal Republic and the Three Powers.



## ARTICLE 5

1. Funds for the support of the Forces shall be expended exclusively for that purpose. The Three Powers undertake to keep the costs chargeable to these funds to the minimum compatible with the military efficiency of the Forces of the Powers concerned, and to utilize the funds efficiently and economically.

2. Budgets will be established by each of the Powers concerned, and the expenditure of funds for the support of the Forces shall be in accordance with such budget categories and within such limits of amount as are established in the estimates prepared by the Powers concerned at the time of the agreement on the sum to be made available under the present Convention. Each of the Powers concerned may freely transfer amounts among the different categories of its budget provided that such transfers result in a change of not more than 10 per cent in the amount originally established for any major category. Advance notice of such transfers will be given to the Federal Republic in order to enable it to make its recommendations. Transfers which result in a change of more than 10 per cent may be affected by agreement between the Three Powers and the Federal Republic.

3. The Powers concerned and the Federal Republic may, by special agreement, consolidate in a special budget the expenditures for construction in the Federal territory of

(a) accommodation for the Forces of the Powers concerned or for the forces of German origin,

(b) the installations and works referred to in Article 20 of the Forces Convention,

and the expenditures for the acquisition of sites therefor. Expenditures under such budget from the funds for the support of the Forces shall transit the budget of the European Defence Community and the Community shall exercise no control over them.

## ARTICLE 6

1. Subject to the provisions of Articles 3 and 4 of the present Convention and the arrangements made thereunder for effecting the transit of the funds through the budget of the European Defence Community, the Federal Republic shall take all steps necessary to make available, as required, the funds for the support of the Forces.

2. Except as provided in paragraph 4 of this Article, such funds shall be disbursed by the appropriate German payment offices on the basis of payment authorizations issued by the appropriate authorities of the Forces. These payment authorizations shall certify that payment within the appropriate budget category of the Power concerned is authorized in accordance with the terms of the present Convention, and appropriate documentation of services rendered shall be attached. In the amount specified by the payment authorization, the appropriate German payment offices shall, after presentation of the payment authorization, effect the payment so certified. The authorized representatives of the Power concerned may examine the German records relating to the payments made by the appropriate German payment offices.



3. Accounts of expenditures and receipts shall be kept by each Power concerned, on the one hand, and by the Federal Republic, on the other hand, and shall conform with uniform nomenclature agreed by the Three Powers and the Federal Republic. If the accounts of the Federal Republic and those of any of the Powers concerned are not in agreement, after each has been audited in accordance with the procedures applicable under German law or regulations or the law or regulations of the Power concerned, as the case may be, reconciliation shall be made under procedures to be established by the Co-ordinating Committee to be set up pursuant to Article 14, of the present Convention. Reports of expenditures and receipts shall be made periodically to the Co-ordinating Committee.

4. The Powers concerned may obtain from German payment offices funds for payment through their own agencies of

(a) minor expenditures in accordance with the regulations of the Power concerned or

(b) any other expenditures which it is agreed require such procedure.

These expenditures shall be certified and documented in accordance with paragraph 2 of this Article.

#### ARTICLE 7

1. The following types of facilities and services shall be used or enjoyed by the Forces, for themselves and for their members, without charge:

(a) Administrative services or assistance of German public agencies, unless agreed to be of a special character warranting payment;

(b) Roads, highways, bridges;

(c) Navigable waters, unless fees for services rendered are payable under German regulations applicable from time to time to military users;

(d) German police, public health and fire protection services, unless agreed to be of a special character warranting payment;

(e) Other public services and facilities normally enjoyed by residents of the Federal territory without payment of a specific charge;

(f) Meteorological, topographical and cartographical facilities and services, unless agreed to be of a special character warranting payment;

(g) The following types of property, except in respect of repairs and maintenance:

(i) property belonging to the Federal Republic, other than property administered by the German Federal Railways or Federal Post, unless it is agreed that an exception should be made in the case of property acquired after the entry into force of the present Convention for use for purposes other than defence;

(ii) property previously owned by the former Reich which is subject to the administration of the Federal Republic in accordance with the Law for a Provisional Settlement of the Legal Status of Reich Property and the Prussian Shares of 21 July 1951 (Bundesgesetzblatt Teil I Seite 467) and the



Ordinance for the Implementation of Article 6 of that Law of 26 July 1951 (Bundesgesetzblatt Teil I Seite 471), other than property administered by the German Federal Railways or Federal Post;

(iii) property which has been constructed or procured by expenditures either from occupation costs or mandatory expenditures or from the defence contribution of the Federal Republic, except that

(1) where property, other than property used without charge under items (i) and (ii) of this sub-paragraph, has been reconstructed by such expenditures, rent shall be paid in an amount to be reduced in the same proportion as the cost of reconstruction bears to the total value of the property; and

(2) ground rent shall be paid for sites which are not the property of the Federal Republic.

2. If property of any of the Laender is used by the Forces, for themselves or their members, the Federal Republic undertakes to ensure that the Forces are relieved from liability for any claims of the Land concerned to compensation for such use under German law.

3. With respect to property used free of charge under sub-paragraph (g) of paragraph 1 and property referred to in paragraph 2 of this Article, the Federal Republic will satisfy the owner's liability, if any, under German law to pay land taxes.

4. Members of the Forces shall in their own right receive or enjoy free of charge such services or facilities as are normally enjoyed by other persons in the Federal territory without charge.

5. Military aircraft of any Power concerned (including aircraft operated under the control of the Forces of such Power) shall not be charged a fee for landing on, or departing from, civil airfields in the Federal territory, unless, in the case of airfields not owned or administered by the Federal Republic, fees are payable under German regulations applicable from time to time to military users. No fee shall be charged for landing by such aircraft in distress.

6. In general the cost of the construction, repair and maintenance of transport and communications facilities, installations and equipment, and public utility facilities, which serve common civilian and military use shall not be charged to the defence contribution of the Federal Republic. Where, however, these facilities are not revenue producing and the civil use is small or where there are any other special circumstances which justify a departure from the general rule, the extra costs attributable to the military requirements will by prior specific agreements be shared or borne, as the case may be, by the Forces.

#### ARTICLES

1. Subject to the provisions of Article 9 of the present Convention, claims in respect of loss or damage caused, after its entry into force, by acts or omissions of the Forces in the Federal territory shall be dealt with in accordance with the provisions of this Article and shall not be asserted otherwise than in accordance with such provisions.

2. The following shall be deemed to be acts or omissions of the Forces:



(a) An act or omission of a member or employee of the Forces, or of a person working for the Forces pursuant to Article 44 or 45 of the Forces Convention, in the performance of his official duties;

(b) An activity of the Forces;

(c) An act or omission causing damage in excess of fair wear and tear to accommodation or movable property made available for use by the Forces in accordance with the Forces Convention, where such damage occurs in the course of such use;

(d) An act or omission of a member of the Forces taking part in manoeuvres of the Forces causing damage to immovable property.

3. Damage caused to accommodation or movables which have been made available for use by the Forces shall be deemed to be caused on the date of its release by them, and the claim shall be deemed first to arise on that date.

4. In determining whether and to what extent compensation shall be paid for loss or damage caused by acts or omissions of the Forces, the appropriate agencies of the Forces shall give due consideration to the provisions of German law which would determine the liability of the Federal Republic in similar circumstances. Claims shall be determined without regard to the exemptions from German traffic regulations to which the Forces are entitled under paragraphs 3 and 5 of Article 17 of the Forces Convention.

5. No claim shall be dealt with under this Article in respect of

(a) damage to public roads, highways, bridges, navigable waterways and other traffic facilities resulting from their use by the Forces, their members or employees for normal traffic purposes;

(b) loss of, or damage to, any property used by the Forces free of charge under item (iii) of sub-paragraph (g) of paragraph 1 of Article 7 of the present Convention;

(c) loss or damage arising under contracts or quasi-contractual relationships.

6. A claimant shall be deemed to have waived his claim against the Forces if he does not file it within ninety days of the time when he first knew of the loss or damage, unless there was reasonable excuse for his failure to file the claim within such period, particularly if he did not know against whom the claim should be asserted. Any claim not received by the agency of the Forces within one year of the date of the incident causing the loss or damage or, in the case of loss or damage referred to in sub-paragraph (c) of paragraph 2 of this Article, within one year from the release of the property shall not be dealt with.

7. Claims shall be filed with the appropriate German agencies in a form to be agreed between the German authorities and the Forces of the Power concerned.

8. The German agency shall

(a) immediately forward to the appropriate agency of the Forces of the Power concerned such particulars of the claim as the latter agency may require; and

(b) investigate the claim within a reasonable time and make a reasoned recommendation thereon to the agency of the Forces.

9. The agency of the Forces shall consider whether and to what



extent compensation should be paid for the loss suffered. It shall notify the claimant and the German agency of its decision. If the claimant accepts in full satisfaction of his claim the amount of the compensation awarded by the agency of the Forces, payment shall be made in accordance with procedures to be agreed between the Federal authorities and the Forces of the Power concerned.

10. If the claimant does not accept the compensation offered, or does not agree with the rejection of his claim, he may, within two months after he has been notified of the decision, bring an action upon his claim in the ordinary German courts against the Federal Republic.

11. The appropriate agencies of the Forces shall make available to the German authorities, upon request, information and evidence in their possession which would assist in the defence of such an action, insofar as they may do so under the regulations of the Power concerned.

12. The appropriate agency of the Forces may, if it so desires, participate in any such action against the Federal Republic by

(a) requiring the Federal Republic to plead certain defences or to appeal, or

(b) appearing as a third party defendant (*Nebenintervenient*) in accordance with the provisions of the German Code of Civil Procedure.

13. The appropriate German agency shall notify the agency of the Forces of the judgment in any such action and the grounds given therefor. Should the judgment of the court differ from the decision of the agency of the Forces, then

(a) if the authorities of the Forces participated in the action against the Federal Republic as provided in paragraph 12 of this Article, the decision of the agency shall be modified so as to accord with the judgment; but

(b) if the authorities of the Forces did not participate in the action, the agency of the Forces shall, upon request of the German authorities, reconsider its decision taking into account the judgment of the court. If upon such reconsideration the agency intends to adhere to its original decision, it shall inform the German authorities of that intention and shall give the German authorities an opportunity to state their views.

Any compensation payable upon a final decision taken in accordance with this paragraph shall be paid under the procedures referred to in paragraph 9 of this Article.

14. Compensation awarded under a decision of an agency of the Forces shall, for the period ending 30 June 1953, be chargeable to the funds for the support of the Forces of the Power concerned, unless otherwise agreed between the Federal Republic and the Power concerned. An agreement between the Federal Republic and the United Kingdom of Great Britain and Northern Ireland in that regard and in relation to ancillary procedure is annexed to the present Convention as Annex A. The financing of payments made after 30 June 1953 shall be considered in the negotiations mentioned in sub-paragraph (a) of paragraph 5 of Article 3 of the present Convention.

15. Notwithstanding the other provisions of this Article, claims in respect of damage caused to accommodation or movables which have been made available for use by the Authorities of the Power con-



cerned before the entry into force of the present Convention, and are released by them after 30 June 1953, shall be determined by the German authorities and shall not be charged to the funds for the support of the Forces, or to the Power concerned.

16. Claims of inhabitants of the Federal territory against persons who are members of the Forces by reason of a military service relationship or employees of the Forces who are nationals of the Power concerned, which arise from acts or omissions outside the performance of official duties for the Forces, may be asserted, determined and satisfied in accordance with paragraphs 6, 7, 8, 9, and 14 of this Article. The normal remedies of the claimant against the person who caused the loss or damage shall remain unaffected, unless the claimant accepts payment of an award made by an agency of the Forces in final settlement of the claim. The first sentence of this paragraph shall not apply to claims for which the person causing the loss or damage is covered by a contract of liability insurance or pays compensation out of his own means.

17. If in any civil action before a German court involving any claim covered by this Article it is necessary to decide whether or not an act or omission occurred in the performance of official duties, a certificate on such question shall be obtained from the appropriate agency of the Forces. Upon request of the court or the German authorities in a particular case, the agency of the Forces will review the certificate. Any certificate given shall be conclusive on the question involved.

18. The provisions of paragraphs 1, 2, 4 to 13 inclusive, 16 and 17 of this Article shall not apply to loss or damage caused by acts or omissions of the Forces of the Powers concerned which are members of the European Defence Community.

#### ARTICLE 9

1. Each Power concerned, for its part, and the Federal Republic, for its part, waives all claims against the other for loss of, or damage to, any property in the Federal Territory owned by it caused after the entry into force of the present Convention by activities, acts or omissions of agencies or persons, for whose acts or omissions the other is legally responsible, in the performance of their official duties. This waiver shall not apply to loss of, or damage to, property of the German Federal Railways or Federal Post, or to loss or damage for which those organizations are responsible.

2. In application of the principle expressed in paragraph 1 of this Article, claims for loss or, or damage to, property used by the Forces free of charge pursuant to items (i) and (ii) of subparagraph (g) of paragraph 1 of Article 7 of the present Convention, and claims arising from increases in the value of such property, shall be deemed to cancel each other out.

3. The Federal Republic undertakes to ensure that each Power concerned is relieved of liability for claims of any Land of the Federal Republic arising from acts or omissions of the Forces as defined in paragraph 2 of Article 8 of the present Convention.

Each Power concerned undertakes to renounce in favour of the Federal Republic all corresponding claims which it may have against



any Land of the Federal Republic. Each Power concerned further undertakes to renounce in favour of the Federal Republic claims in respect of improvements leading to an increase in value of the property referred to in paragraph 2 of Article 7 of the present Convention.

#### ARTICLE 10

1. Payments by the Federal Republic in satisfaction of any claims referred to in Article 3 of Chapter Nine of the Convention on the Settlement of Matters Arising out of the War and the Occupation may be charged to the funds for the support of the Forces only to the extent agreed between the Federal Republic and the Powers concerned.

2. Any claims referred to in paragraph 1 of this Article which the agencies of the Power concerned have not determined before the entry into force of the present Convention shall be submitted to the appropriate agencies of the Federal Republic.

#### ARTICLE 11

1. Receipts arising from the following sources shall accrue to the Federal Republic and shall be duly accounted for:

(a) The disposal of any movable property which so far as can be ascertained was purchased from Reichsmark or Deutsche Mark occupation costs or mandatory expenditure funds;

(b) Payments by third parties of amounts in consideration of improvements which lead to an increase in value of their property as a result of expenditure from Reichsmark or Deutsche Mark occupation costs or mandatory expenditure funds;

(c) Repayment claims against third parties arising out of overpayments from Reichsmark or Deutsche Mark occupation costs or mandatory expenditure funds.

2. The Deutsche Mark value of receipts arising from the following sources shall accrue to the Power concerned and shall be issued in accordance with the provisions of Articles 5 and 6 of the present Convention on the basis of supplementary Deutsche Mark budget estimates to be agreed between the Power concerned and the Federal Republic.

(a) The disposal of any movable property purchased by expenditure from funds for the support of the Forces. Any amounts accruing pursuant to this sub-paragraph shall be the sale price of the property concerned if it is sold, less the costs of disposal, or if the property is not sold, a value to be fixed by impartial valuation in accordance with conditions to be agreed between the Federal Republic and the Power concerned:

(b) Any receipts in Deutsche Mark or in kind arising out of the use by the Forces of accommodation, goods, materials and services provided under the present Convention or the Forces Convention, provided that any Deutsche Mark amounts received from persons or agencies not members of the Forces, as compensation for the use of accommodation in connection with services performed for the Forces and their members, shall accrue to the Federal Republic;



(c) Payments by third parties of amounts in consideration of improvements which lead to an increase in value of their property as a result of expenditure from funds for the support of the Forces. However, such payments by Laender of the Federal Republic shall accrue to the Federal Republic;

(d) Repayment claims against third parties arising out of overpayments from funds for the support of the Forces.

3. The Federal Republic shall with due diligence assert and prosecute such claims as fail to be made under sub-paragraphs (c) and (d) of paragraph 2 of this Article. The authorities of the Power concerned may require that they be consulted in due time before the assertion of any claim under sub-paragraph (c) of paragraph 1 or sub-paragraph (d) of paragraph 2.

#### ARTICLE 12

1. Payments for accommodation, goods, materials or services provided for the Forces and their members shall be subject to the provisions of this Article.

2. Subject to the effect of the tax and customs exemptions provided in the Forces Convention or any other applicable agreement, the prices paid in satisfying the requirements of the Forces shall conform in principle to price and wage levels prevailing from time to time in the Federal territory, but the authorities of the Power concerned shall receive terms and conditions not less favourable than those afforded to comparable purchasers. When the requirements of the Forces are satisfied through procurement by the German authorities, or other expenditures chargeable to funds for the support of the Forces are made by the German authorities, the amount to be paid shall be determined in agreement with the authorities of the Power concerned. Except in the case of goods procured for consumption by persons normally resident in the Federal territory, the Power concerned shall not benefit from any subsidies granted by the Federal Republic to lessen the price of goods in the interest of the individual German consumer. The procedures for implementation of the preceding sentence shall be established by the subsidiary agreements provided for in Article 17 of the present Convention.

3. Compensation for accommodation, goods, materials or services obtained for the Forces by requisition under the Federal legislation referred to in paragraph 3 of Article 37 of the Forces Convention shall be determined by the appropriate German authorities, in consultation with the authorities of the Power concerned, in accordance with the provisions of that legislation and the principles expressed in the first sentence of paragraph 2 of this Article. Until the entry into force of such Federal legislation, the existing basis for assessment of compensation for accommodation, goods, materials and services requisitioned for the Forces shall remain in force.

4. The wage and salary rates for civilian personnel referred to in Article 44 of the Forces Convention shall be determined in accordance with paragraph 5 of that Article. The amounts chargeable to the funds for the support of the Forces shall include the employer's contribution to social insurance funds and the premiums for statutory accident insurance payable under German law.



5. The transport facilities and services afforded to the Forces and their members under the agreements mentioned in paragraph 3 of Article 41 of the Forces Convention shall be paid for at the rates established in those agreements. Before the expiry of the said agreements, other tariff agreements consistent with the principles of paragraph 2 of this Article and Article 41 of the Forces Convention shall be concluded as provided in the latter Article.

6. The facilities and services of the German public posts and telecommunications agencies afforded to the Forces and their members under Article 42 of the Forces Convention, and any facilities made available by the Forces to the German authorities under paragraph 5 of that Article, shall be paid for at rates established in accordance with paragraph 1 of that Article. Timely agreements shall be concluded, consistent with the principles of paragraph 2 of this Article and Article 42 of the Forces Convention, for rates to be effective from 30 June 1953.

#### ARTICLE 13

1. Except in special cases which may be the subject of agreement between the Powers concerned and the Federal Republic the expenditure of funds for the purpose of capital works shall be in accordance with the provisions of this Article.

2. Prior to 30 June 1953, the following costs for construction of accommodation shall be chargeable to the funds for the support of the Forces:

(a) all material, labour and other costs of construction, including the cost of preparation of the site;

(b) the cost of constructing transport, communications and public utility facilities and installations on, or leading to, the site, provided that such facilities are furnished exclusively to serve the accommodation concerned;

(c) the cost of replacing or re-routing to a standard not higher than that previously existing, transport, communications or public utility facilities and installations no longer available for public use by reason of the construction of the accommodation concerned.

In the case of costs referred to in sub-paragraphs (b) and (c) of this paragraph which are incurred by the German authorities on behalf of the Forces, the amount of expenditures to be charged to the funds for the support of the Forces shall be determined in agreement with the authorities of the Forces. Where the facilities and installations referred to in sub-paragraphs (b) and (c) of this paragraph are revenue producing, or may constitute or form part of improvements included in a German development plan, the costs thereof shall be chargeable to the funds for the support of the Forces in the proportion agreed between the Powers concerned and the Federal Republic.

3. Until 30 June 1953, the cost of the installations and works referred to in Article 20 of the Forces Convention shall be chargeable to the sum mentioned in paragraph 2 of Article 4 of the present Convention and paid from the funds for the support of the Forces to the extent that provision is made therefor in the budgets of the Powers concerned. If installations and works should be carried out for which no provision has been made in such budgets, their financing shall be determined by prior agreement between the Federal Republic, the European Defence Community and the Powers concerned.



4. Any expenditures, other than those provided for in paragraph 2 of this Article, made prior to 30 June 1953 and related to the acquisition and evacuation of accommodation for the Forces shall not be charged to the funds for the support of the Forces mentioned in paragraph 3 of Article 4 of the present Convention or to the Powers concerned.

5. The financing after 30 June 1953 of the expenditures covered by paragraphs 2, 3 and 4 of this Article shall be determined in the negotiations mentioned in sub-paragraph (a) of paragraph 5 of Article 3 of the present Convention.

#### ARTICLE 14

A permanent Co-ordinating Committee composed of representatives of the Three Powers and of the Federal Republic shall be established to carry out the tasks assigned to it under the present Convention, to coordinate the implementation of the present Convention, and to consider and make recommendations to the Signatory States concerning the removal of any doubts or difficulties arising in connection therewith which cannot be resolved directly by consultation between the competent authorities and services concerned. Representatives of the Commissariat of the European Defence Community may take part in the discussions of the Committee, whenever the interests of the Community are involved.

#### ARTICLE 15

The Powers concerned may expend also in Berlin any funds made available to them under the present Convention for the purposes mentioned in paragraph 1 of Article 5.

#### ARTICLE 16

At the request of any of the Signatory States discussions may be opened to amend or abrogate any of the Articles of the present Convention, especially if agreements between the North Atlantic Treaty Organization and the European Defence Community make such modification necessary or desirable.

#### ARTICLE 17

1. The Three Powers, or any Power concerned, and the Federal Republic will conclude, where necessary or desirable, subsidiary agreements regarding the implementation of the present Convention, particularly the provisions of Article 6.

2. The negotiations and implementation of these subsidiary agreements shall be co-ordinated through the Co-ordinating Committee established pursuant to Article 14 of the present Convention.

#### ARTICLE 18

1. The provisions of Article 3 of the present Convention shall not apply as between the Federal Republic and the French Republic.



2. The provisions of the present Convention shall apply to the Forces of other Sending States which are not members of the European Defence Community, and to the members of such Forces, except where excluded or modified by any agreement which may be made between any of such other Sending States and the Federal Republic.

#### ARTICLE 19

The Arbitration Tribunal established by the Convention on the Relations between the Three Powers and the Federal Republic of Germany shall not have jurisdiction

(a) over any dispute arising between the Three Powers and the Federal Republic under the provisions of Article 3, paragraph 4 of Article 4, or paragraph 3 of Article 5 of the present Convention,

(b) to determine questions as to the extent of the competence or to review the decisions of the German agencies and agencies of the Forces referred to in Article 8 or of the Co-ordinating Committee to be established under Article 14 of the present Convention.

IN FAITH WHEREOF the undersigned representatives duly authorized thereto by their respective Governments have signed the present Convention, being one of the related Conventions listed in Article 8 of the Convention on Relations between the Three Powers and the Federal Republic of Germany.

DONE at Bonn this twenty-sixth day of May, 1952 in three texts, in the English, French and German languages, all being equally authentic.

For the United States of America :  
s/ DEAN ACHESON

For the United Kingdom of Great  
Britain and Northern Ireland :  
s/ ANTHONY EDEN

For the French Republic :  
s/ ROBERT SCHUMAN

For the Federal Republic of  
Germany :  
s/ ADENAUER

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#### ANNEX A TO FINANCE CONVENTION

In the case of the Forces of the United Kingdom of Great Britain and Northern Ireland and of the Forces of Belgium, Denmark and Norway the provisions of Article 8 of the Finance Convention shall be implemented in accordance with the following provisions:



## SECTION 1

The functions of the appropriate agency of the Forces set out in paragraph 9 of Article 8 of the Finance Convention shall in respect of these Forces be delegated to the Federal Republic.

## SECTION 2

1. The appropriate German agency shall inform the appropriate agency of the Forces of any claim lodged with it and shall append such particulars as the latter agency may require.

2. After receipt of these particulars, the appropriate agency of the Forces will forward as soon as possible to the appropriate German agency such information and evidence in its possession as is necessary for dealing with the claim insofar as the making available of such information and evidence is permissible under the regulations of the Power concerned.

3. In the case of claims to which sub-paragraphs (c) and (d) of paragraph 2 of Article 8 of the Finance Convention apply, the agency of the Forces shall in particular make available within twenty-one days of receipt of notification under paragraph 1 of this Section any information or evidence in its possession which would support the rejection of the claim in whole or in part. In such case the German agency shall assess and pay compensation only in the full light of such information and evidence and in any case of doubt shall refer to the agency of the Forces before making any payment.

## SECTION 3

1. Where a claim to compensation is based on an allegation of loss or damages caused by an act or omission in the performance of his official duties of a member or employee of the Forces or of a person working for the Forces pursuant to Article 44 or 45 of the Forces Convention or is alleged to arise from an activity of the Forces, the appropriate agency of the Forces will certify whether or not such act or omission occurred in the performance of the official duties of the person concerned or an activity of the Forces was involved as the case may be.

2. The German agency shall not assess or pay any compensation unless the appropriate agency of the Forces has issued a certificate that the act or omission causing the loss or damage occurred in the performance of official duties or that the loss or damage was caused by an activity of the Forces.

3. If during investigations of a claim circumstances appear which would lead to an inference different from that contained in the certificate on the question whether an act or omission occurred in the performance of official duties or an activity of the Forces is concerned, the appropriate agency of the Forces will on the request of the appropriate German agency review its certificate taking into account the representations made by the German agency.



## SECTION 4

If a claimant brings an action in the ordinary German court against the Federal Republic pursuant to paragraph 10 of Article 8 of the Finance Convention, the German agency will forward to the appropriate agency of the Forces a copy of the plaint. Should the German agency deem it necessary in the light of the plaint to obtain from the agency of the Forces supplementary documents or evidence to be used in the defence of the action, it will so inform the agency of the Forces as early as possible.

## SECTION 5

Should the legally enforceable judgment of a Court in an action brought under paragraph 10 of Article 8 of the Finance Convention differ from the decision of the German agency taken under Section 1 of this Annex, the decision shall be modified so as to make it accord with the judgment; this shall apply whether or not the authorities of the Forces exercised their right to participate in the action against the Federal Republic under paragraph 12 of Article 8 of the Finance Convention.

## SECTION 6

To enable that part of the compensation awarded by the German agencies or Courts which under Section 7 of this Annex is to be charged to the funds for the support of the Forces of the Power concerned to be so charged, the German agency shall by the fifteenth day of each month furnish to the appropriate agency of the Forces a list showing the amounts of compensation paid during the previous month.

## SECTION 7

It is agreed, as provided for in paragraph 14 of Article 8 of the Finance Convention, that 75 per cent of the compensation awarded by the appropriate German agencies or by the ordinary German courts shall be charged to the funds for the support of the Forces made available under the Finance Convention. The remaining 25 per cent of the compensation shall be borne by the Federal Republic.

## SECTION 8

The provisions of this Annex shall not affect the provisions of paragraph 16 of Article 8 of the Finance Convention.

## SECTION 9

If any of the Forces to which this Annex relates are or become part of the Forces of the European Defence Community, the above provisions shall apply to such Forces only so far as is consistent with the applicability of Article 8 of the Finance Convention to those Forces.



TEXTS OF LETTERS EXCHANGED IN CONNECTION WITH  
THE SIGNING OF THE GERMAN CONTRACTUAL  
AGREEMENTS

26 MAY 1952

His Excellency,  
The CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY  
Mr. CHANCELLOR,

The Three Powers advise you that, in the exercise of their rights relating to Berlin and to Germany as a whole, including the unification of Germany and a peace settlement, referred to in Article 2 of the Convention on Relations between the Three Powers and the Federal Republic of Germany, they will require that the following legislation of the Control Council be not deprived of effect in the Federal territory by the Federal Republic: Proclamation No. 1 and Directives Nos. 1, 2, 4-7, 11-13, 17, 20, 21, 34, 36, 42, 43, 49, 51 and 53.

Nothing in this letter is intended to or shall be construed as modifying in any way the new relations between the Three Powers and the Federal Republic established by the Convention on Relations between the Three Powers and the Federal Republic of Germany and the related Conventions.

/s/ DEAN ACHESON  
*Secretary of State, United States of America*

/s/ ROBERT SCHUMAN  
*Foreign Minister of the Republic of France*

/s/ ANTHONY EDEN  
*Her Britannic Majesty's Principal Secretary of State  
for Foreign Affairs*

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[Translation]

MAY 26, 1952

To: Foreign Ministers [US/UK/France]

I acknowledge receipt of your letter of 26 May 1952. The Federal Government notes that, in the opinion of the Three Powers, the maintenance of the Control Council Provisions listed in that letter is necessary in connection with their rights relating to Berlin and to Germany as a whole. The Federal Government is of the opinion that these provisions for the most part represent provisions of internal procedure of the Control Council which cannot be the subject of German legislative authority and which, therefore, cannot be deprived of effect by German legislative bodies. The Federal Govern-



ment recognizes that the remainder of these provisions, which relate to interzonal traffic, fall within the right of the Three Powers relating to Berlin and to Germany as a whole.

/s/ ADENAUER

26 MAY 1952

His Excellency,

The CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY

Mr. CHANCELLOR,

Article 5 of Chapter Three of the Convention on the Settlement of Matters Arising out of the War and the Occupation provides that successor organizations and trust corporations, appointed pursuant to the legislation referred to in paragraph (a) of Article 1 thereof shall continue to be granted the tax immunities enjoyed by them on the entry into force thereof, where those immunities involve taxes accruing to the Federation. The successor organizations and the trust corporations will enjoy on the entry into force of the Convention those tax immunities which, under German law, are granted to organizations directly and exclusively serving purposes useful to the public. The tax immunity provided for in the Convention relates only to taxes which accrue to the Federation. As my Government started from the premise that the position of the successor organizations and trust corporations should not be worsened as a result of the conclusion of the Convention, I should like you to confirm to me that where taxes or levies regarding which those organizations now enjoy tax immunity may, after the entry into force of the Convention, be payable by them to the Laender, Gemeinden or Gemeinden-verbaende, the Federal Government will settle the claims for those taxes or levies directly with the claimant authorities in such a way that the successor organizations and trust corporations will not be liable to make any payment thereon.

/s/ ANTHONY EDEN

*Her Britannic Majesty's Principal Secretary of State for  
Foreign Affairs*

[Translation]

26 MAY 1952

His Excellency,

The CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY

Mr. CHANCELLOR,

Article 5 of Chapter Three of the Convention on the Settlement of Matters Arising out of the War and the Occupation provides that successor organizations and trust corporations, appointed pursuant to the legislation referred to in paragraph (a) of Article 1 thereof shall continue to be granted the tax immunities enjoyed by them on the entry into force thereof, where those immunities involve taxes accruing to the Federation. The successor organizations and the trust corporations will enjoy on the entry into force of the Convention those tax immunities which, under German law, are granted to organizations directly and exclusively serving purposes useful to the public. The tax immunity provided for in the Convention relates



only to taxes which accrue to the Federation. As my Government started from the premise that the position of the successor organizations and trust corporations should not be worsened as a result of the conclusion of the Convention, I should like you to confirm to me that where taxes or levies regarding which those organizations now enjoy tax immunity may, after the entry into force of the Convention, be payable by them to the Laender, Gemeinden or Gemeindenverbaende, the Federal Government will settle the claims for those taxes or levies directly with the claimant authorities in such a way that the successor organizations and trust corporations will not be liable to make any payment thereon.

/s/ ROBERT SCHUMAN  
*Minister for Foreign Affairs of the French Republic*

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26 MAY 1952

His Excellency,  
The CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY

Mr. CHANCELLOR:

Article 5 of Chapter Three of the Convention on the Settlement of Matters Arising out of the War and the Occupation provides that successor organizations and trust corporations, appointed pursuant to the legislation referred to in paragraph (a) of Article 1 thereof, shall continue to be granted the tax immunities enjoyed by them on the entry into force thereof, where those immunities involve taxes accruing to the Federation. The successor organizations and the trust corporations will enjoy on the entry into force of the Convention those tax immunities which, under German law, are granted to organizations directly and exclusively serving purposes useful to the public. The tax immunity provided for in the Convention relates only to taxes which accrue to the Federation. As my Government started from the premise that the position of the successor organizations and trust corporations should not be worsened as a result of the conclusion of the Convention, I should like you to confirm to me that where taxes or levies regarding which those organizations now enjoy tax immunity may, after the entry into force of the Convention, be payable by them to the Laender, Gemeinde or Gemeindenverbaende, the Federal Government will settle the claims for those taxes or levies directly with the claimant authorities in such a way that the successor organizations and trust corporations will not be liable to make any payment thereon.

/s/ DEAN ACHESON,  
*Secretary of State*  
*United States of America*

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[Translation]

MAY 26, 1952

To: Foreign Ministers [US/UK/France]

In reply to your letter of today I agree that the position of the successor organizations and trust corporations should not be worsened as a result of the conclusion of the Convention. Accordingly I con-



firm that if, after the entry into force of the Convention, any taxes or levies which are not under German law imposed on German organization directly and exclusive serving purposes useful to the public, and which accrue in whole or in part to the Laender, Gemeinde or Gemeindeverbaende, are imposed upon the successor organizations and trust corporations, then the Federal Government will settle the claims for those taxes or levies directly with the claimant authorities in such a way that the successor organizations and trust corporations will not be liable to make any payments thereon.

/s/ ADENAUER

26 MAY 1952

His Excellency,

The CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY

Mr. CHANCELLOR:

As we have already advised you during our discussions on the Conventions between the Three Powers and the Federal Republic which have been signed today, the reservation made on 12 May 1949 by the Military Governors concerning Articles 23 and 144 (2) of the Basic Law will, owing to the international situation, be formally maintained by the Three Powers in the exercise of their right relating to Berlin after the entry into force of those Conventions.

The Three Powers wish to state in this connection that they are nonetheless conscious of the necessity for the Federal Republic to furnish aid to Berlin and of the advantages involved in the adoption by Berlin of policies similar to those of the Federation.

For this reason they have decided to exercise their right relating to Berlin in such a way as to facilitate the carrying out by the Federal Republic of its declaration attached to the Convention on Relations between the Three Powers and the Federal Republic and to permit the Federal authorities to ensure representation of Berlin and of the Berlin population outside Berlin.

Similarly, they will have no objections if, in accordance with an appropriate procedure authorized by the Allied Kommandatura, Berlin adopts the same legislation as that of the Federal Republic, in particular regarding currency, credit and foreign exchange, nationality, passports, emigration and immigration, extradition, the unification of the customs and trade area, trade and navigation agreements, freedom of movement of goods, and foreign trade and payments arrangements.

In view of the declaration of the Federal Republic concerning material aid to Berlin and the charge on the Federal budget of the occupation costs of the Three Powers in Berlin in accordance with the provisions of existing legislation, the Three Powers will be prepared to consult with the Federal Government prior to their establishment of their Berlin occupation cost budgets. It is their intention to fix such costs at the lowest level consistent with maintaining the security of Berlin and of the Allied Forces located there.



For the Government of the United States of America:

/s/ JOHN J. McCLOY  
*U. S. High Commissioner for Germany*

For the Government of the Republic of France:

/s/ A. FRANCOIS-PONCET  
*French High Commissioner for Germany*

For the Government of the United Kingdom of Great Britain and  
 Northern Ireland:

/s/ IVONE KIRKPATRICK  
*U. K. High Commissioner for Germany*

26 MAY 1952

His Excellency,  
 The CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY.

Mr. CHANCELLOR

In the course of our recent conversations you asked us to confirm that the right relating to Germany as a whole reserved by the Three Powers in Sub-paragraph (c) of paragraph 1A of the Convention on Relations between the Three Powers and the Federal Republic of Germany cannot be interpreted as permitting them to affect adversely the relations established between themselves and the Federal Republic by the Conventions signed today.

We have the honor to inform you that our Governments do not interpret the right in question as permitting the Three Powers to derogate from their undertakings to the Federal Republic in the Conventions signed today.

For the Government of the United States of America

/s/ JOHN J. McCLOY  
*U. S. High Commissioner for Germany*

For the Government of the Republic of France

/s/ A. FRANCOIS-PONCET  
*French High Commissioner for Germany*

For the Government of the United Kingdom of Great Britain and  
 Northern Ireland

/s/ IVONE KIRKPATRICK  
*U. K. High Commissioner for Germany*

[Translation]

To: High Commissioners [US/UK/France] MAY 26, 1952

On behalf of the Federal Government, I declare that, after the entry into force of the Convention on the Relations Between the Three



Powers and the Federal Republic of Germany, it will apply the provisions of Article 44 of the International Telecommunications Convention signed at Atlantic City on 2 October, 1947, in respect of the radio services or communication facilities of the Three Powers, the recognized private enterprises and other duly authorized enterprises within the territories of the Three Powers which are operated on frequencies allotted under the Agreement of Copenhagen (1948).

Although the Federal Government does not feel bound by the Agreement of Copenhagen, it accordingly recognizes that no harmful interference with these radio services or communications may be caused by radio stations in the Federal Territory.

I shall be grateful if you will inform your Government of the contents of this letter.

/s/ ADENAUER

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[Translation]

MAY 26, 1952

To: High Commissioners [US/UK/France]

In connection with the discussions leading to the formulation of Article 4 of Chapter Ten (Foreign Interests) of the Convention on the Settlement of Matters Arising out of the War and the Occupation, your negotiators have pointed out that Article 4 makes only a general statement of principle as regards the influence of the state of war on private pre-war contracts and that the principle in itself is not sufficient to overcome the considerable legal difficulties which could arise from the solution of all the particular problems involved.

I wish to inform you on behalf of the Federal Government that it is prepared to enter into discussions with the other Governments concerned for the negotiation of a multilateral agreement laying down rules for the solution of these questions. My Government considers, however, that contracts of insurance and reinsurance should be treated separately in view of their special character. It is therefore willing to enter into bilateral discussions with each of the other Governments concerned with a view to the negotiation of bilateral agreements in this field.

I shall be grateful if you will inform your Government of the contents of this letter.

/s/ ADENAUER

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26 MAY 1952.

His Excellency,  
The CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY.

Mr. CHANCELLOR:

During the discussions on the Conventions which have been signed today, you have raised the question whether certain provisions of these Conventions might be put into effect before the time provided for in the Conventions themselves.

We wish to inform you that when the Conventions have been ratified by all the parties to them our Governments will be prepared if there is any undue delay on the part of others powers in ratifying the Treaty on the establishment of the E. D. C. to hold a meeting with the



Federal Government to consider the situation, and to determine whether arrangements may be made to put certain provisions contained in the Conventions into effect prior to the entry into force of the Conventions.

/s/ DEAN ACHESON

*Secretary of State, United States of America*

/s/ ROBERT SCHUMAN

*Foreign Minister, France*

/s/ ANTHONY EDEN

*Secretary of State for Foreign Affairs, United Kingdom of Great Britain and Northern Ireland*

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[Translation]

FEDERAL REPUBLIC OF GERMANY,  
THE FEDERAL CHANCELLOR,  
*Bonn, May 26, 1952.*

His Excellency  
the Secretary of State  
of the United States of America  
Mr. DEAN ACHESON

Mr. SECRETARY,

I am honored to be able to inform your excellency as follows:

Article 33 of the "Convention on the Rights and Obligations of Foreign Forces and Their Members in the Federal Republic of Germany" regulates the tax treatment of the forces and their members. Paragraph 3 of this article of the Convention reads as follows:

"(a) The tax treatment of the Forces and their members shall be dealt with in a Special Agreement to the extent that provision is not made in the present Convention.

"(b) The Federal Government undertakes to take all necessary measures to ensure that, until the Special Agreement referred to in sub-paragraph (a) of this paragraph enters into force, the Forces and their members shall be protected from suffering taxes for which exemption would be provided in that Agreement if it were to enter into force."

In case the Special Agreement mentioned in Article 33 should not enter into force, the Federal Government will, to the extent necessary, pay a sum in the amount of the taxes which might be imposed; this is, however, not applicable for taxes on beer procured from domestic producers.

I would appreciate, if you would confirm that you concur with the contents of my letter.

I avail myself of this opportunity to assure you, Mr. Secretary, of my highest consideration.

ADENAUER



26 MAY 1952

His Excellency,  
The CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY.

Mr. CHANCELLOR,

I have the honour to acknowledge receipt of your letter of 26 May 1952 regarding the tax treatment of the Forces and their members and to confirm that I agree with its contents.

/s/ DEAN ACHESON  
*Secretary of State*  
*United States of America*

26 MAY 1952

His Excellency,  
The CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY,  
*Palais Schaumburg,*  
*141 Koblenzerstrasse, Bonn.*

Mr. CHANCELLOR:

I refer to the provisions of paragraphs 3 and 5 of Article 4 of the Finance Convention and to say that the three High Commissioners consider it desirable to state that their understanding of these provisions is as follows:

Amounts due under payment documents issued before the entry into force of the Finance Convention will not be charged to the amounts specified in paragraph 3 of Article 4 of the Convention unless at the date of its entry into force the goods or services covered by such payment documents have not actually been delivered or rendered.

In this connection the three High Commissioners wish to reaffirm the statement made in their letter of 10 May 1952 (AGSEC (52) 430) with regard to anticipatory payments made prior to 31 March 1952, which statement conforms to the principle of the understanding stated above.

I shall be glad if you will confirm this understanding.

I beg Your Excellency to accept the renewed assurance of my highest consideration.

/s/ John J. McCloy  
JOHN J. McCLOY  
*Chairman*

[Translation]

FEDERAL REPUBLIC OF GERMANY  
THE FEDERAL CHANCELLOR  
*Bonn, May 26, 1952*

To the Chairman of the Council  
of the Allied High Commission for Germany

His Excellency, Mr. JOHN J. McCLOY  
*Mehlem.*

Mr. HIGH COMMISSIONER,

I am honored to acknowledge the receipt of your letter of May 26, 1952—AGSEC (52) 487—which reads as follows:



"I refer to the provisions of paragraphs 3 and 5 of Article 4 of the Finance Convention and to say that the three High Commissioners consider it desirable to state that their understanding of these provisions is as follows:

Amounts due under payment documents issued before the entry into force of the Finance Convention will not be charged to the amounts specified in paragraph 3 of Article 4 of the Convention unless at the date of its entry into force the goods or services covered by such payment documents have not actually been delivered or rendered.

In this connection the three High Commissioners wish to reaffirm the statement made in their letter of 10 May 1952 (AGSEC (52) 430) with regard to anticipatory payments made prior to 31 March 1952, which statement conforms to the principle of the understanding stated above.

I shall be glad if you will confirm this understanding."

I avail myself of this opportunity, Mr. High Commissioner, to renew the assurances of my highest consideration.

Signed: ADENAUER

26 MAY 1952

His Excellency

The CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY,

*Palais Schaumburg,*

*141 Koblenzerstrasse, Bonn.*

Mr. CHANCELLOR:

I refer to paragraph 2 of Article 6 of the Finance Convention which provides that the appropriate German authorities shall, after presentation to them of a payment authorization issued by the Forces, effect the payment in the amount shown in the payment authorization. It is agreed to be in the interest of all concerned that payment shall be made as early as possible.

Accordingly, I understand it has been agreed that the appropriate German authorities will deal with such payments as follows:

1. Except as provided in paragraph 3, payment shall be made within fifteen days after presentation of the payment authorization.

2. Payment of wages and salaries shall be effected within one week after presentation of the payment authorization.

3. In exceptional cases the payment period referred to in paragraph 1 may be exceeded if the appropriate authorities of the Forces do not object. The German authorities will give prior notice to the authorities of the Forces of the necessity for such an extension of the period and the reasons therefor.

I would appreciate your confirmation of this understanding.

I beg Your Excellency to accept the renewed assurance of my highest consideration.

/s/ John J. McCloy  
JOHN J. McCLOY  
Chairman



[Translation]

FEDERAL REPUBLIC OF GERMANY  
THE FEDERAL CHANCELLOR*Bonn, May 26, 1952*

To the Chairman of the Council  
of the Allied High Commission for Germany  
His Excellency, Mr. JOHN J. McCLOY  
*Mehlem*

Mr. HIGH COMMISSIONER:

I am honored to acknowledge the receipt of your letter of this date, in which you refer to Article 6, Paragraph 2 of the Finance Convention. I am in agreement with the contents of your letter.

I avail myself of the opportunity, Mr. High Commissioner, to renew the assurances of my highest consideration.

ADENAUER

26 MAY 1952

His Excellency,  
The CHANCELLOR OF THE FEDERAL REPUBLIC OF GERMANY,  
*Palais Schaumburg,  
141 Koblenzerstrasse, Bonn.*

Mr. CHANCELLOR:

I refer to paragraph 1 of Article 10 of the Finance Convention which provides that payments by the Federal Republic in satisfaction of any claims referred to in Article 3 of Chapter Nine of the Convention on the Settlement of Matters arising out of the War and the Occupation may be charged to the funds for the support of the Forces only to the extent agreed between the Federal Republic and the Powers concerned.

I wish to say that the Three Powers agree that payments made by the Federal Republic, in accordance with paragraph 3 of Article 3 of Chapter Nine of the Convention on the Settlement of Matters arising out of the War and the Occupation, upon claims under Allied High Commission Law No. 47 for occupation damage suffered within three months before the date of entry into force of the Finance Convention, may be charged to the funds for the support of the Forces in accordance with Article 6 of the Finance Convention.

Furthermore, in accordance with our understanding of 21 May 1952, I wish to say that the Three Powers agree to charge to the funds for the support of the Forces any amounts expended as occupation costs and mandatory expenditures against payment documents issued by the Occupation Forces and Authorities between 1 April 1952 and 1 November 1952, to the extent that such amounts exceed a monthly average of DM 600 million.

The agreements expressed above are based upon the assumption that the Finance Convention will not enter into force before 1 November 1952, and it is agreed that, if the Convention should enter into force before that date, it will be necessary to reconsider both of the above agreements.



I would appreciate your confirmation of the above agreement.

I beg Your Excellency to accept the renewed assurance of my highest consideration.

/s/ John J. McCloy  
JOHN J. McCLOY  
*Chairman*

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[Translation]

FEDERAL REPUBLIC OF GERMANY,  
THE FEDERAL CHANCELLOR  
*Bonn, May 26, 1952*

To the Chairman of the Council  
of the Allied High Commission for Germany  
His Excellency, Mr. JOHN J. McCLOY  
MEHLEM.

Mr. HIGH COMMISSIONER,

I am honored to acknowledge the receipt of your letter of this date concerning claims arising from occupation damages and to inform you, that I am in agreement with its contents.

I avail myself of this opportunity, to renew, Mr. High Commissioner, the assurances of my highest consideration.

Signed: ADENAUER

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[Translation]

FEDERAL REPUBLIC OF GERMANY  
*Bonn, May 27, 1952*

His Excellency  
Secretary of State  
of the United States of America  
DEAN ACHESON

Mr. SECRETARY:

In the name of the Government of the Federal Republic of Germany, I have the honor to inform you of the following:

As no effective control of atomic weapons can be accomplished without the overall control of the atomic energy field, the Federal Government undertakes to maintain controls in this field beyond production of such weapons. Therefore, the Federal Government will, by legislation, prohibit:

(a) the development, production and possession of atomic weapons as defined in Annex II to Article 107 of the European Defense Community Treaty;

(b) the import or production, by whatever process, of nuclear fuel in quantities exceeding 500 grams in any one year for the whole of the Federal Republic;

(c) the development, construction or possession of nuclear reactors or other instruments or installations capable either of producing atomic weapons or of producing nuclear fuel in quantities exceeding 500 grams in any one year for the whole of the Federal Republic, the capability of producing 500 grams of nuclear reactor as corresponding to a heat output equivalent of 1.5 megawatts;



(d) the production or import in the whole of the Federal Republic of uranium in any chemical form in quantities greater than nine tons of uranium element equivalent per year. During an interim period, however, the Federal Republic is entitled to produce a quantity of uranium not to exceed thirty tons of uranium element equivalent for the initial requirements of a reactor;

(e) the storage of uranium in any chemical form other than in non-processed ores in quantities exceeding eighteen tons of uranium element equivalent in the whole of the Federal Republic, in addition to the initial reactor requirements.

The Federal Republic will, legislation comparable to that in force in your countries, control:

(a) the export from the Federal Republic of all articles and products useful in the development of atomic energy in accordance with a list to be mutually agreed amongst the four countries, and

(b) activities including export and import with respect to uranium, thorium and materials containing uranium and thorium.

The Federal Republic will also take all necessary steps to ensure that information of a security nature in the field of atomic energy is not divulged to unauthorized persons.

The Federal Republic understands that your Governments are agreeable to reviewing the limitation stated above on the production and acquisition of nuclear fuel at the end of a period of two years from the date of entry into force of the Conventions signed between your Governments and mine on 26 May 1952.

I take this occasion, Mr. Secretary, to assure you of my highest consideration.

ADENAUER

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[Paris]

MAY 27, 1952

His Excellency Dr. KONRAD ADENAUER,  
*Chancellor of the Federal Republic of Germany.*

I have the honor to acknowledge receipt of your letter of May 27, 1952 which reads in translation as follows:

"As no effective control of atomic weapons can be accomplished without the overall control of the atomic energy field, the Federal Government undertakes to maintain controls in this field beyond production of such weapons. Therefore, the Federal Government will, by legislation, prohibit:

(a) the development, production and possession of atomic weapons as defined in Annex II to Article 107 of the European Defense Community Treaty;

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whole of the Federal Republic, the capability of producing 500 grams of nuclear reactor as corresponding to a heat output equivalent of 1.5 megawatts;

(d) the production or import in the whole of the Federal Republic of uranium in any chemical form in quantities greater than nine tons of uranium element equivalent per year. During an interim period, however, the Federal Republic is entitled to produce a quantity of uranium not to exceed thirty tons of uranium element equivalent for the initial requirements of a reactor;

(e) the storage of uranium in any chemical form other than in non-processed ores in quantities exceeding eighteen tons of uranium element equivalent in the whole of the Federal Republic, in addition to the initial reactor requirements.

"The Federal Republic will, by legislation comparable to that in force in your countries, control:

(a) the export from the Federal Republic of all articles and products useful in the development of atomic energy in accordance with a list to be mutually agreed amongst the four countries, and

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"The Federal Republic will also take all necessary steps to ensure that information of a security nature in the field of atomic energy is not divulged to unauthorized persons.

"The Federal Republic understands that your Governments are agreeable to reviewing the limitation stated above on the production and acquisition of nuclear fuel at the end of a period of two years from the date of entry into force of the Conventions signed between your Governments and mine on 26 May 1952."

The Government of the United States has taken note of these assurances with satisfaction.

Sincerely,

(Signed) DEAN ACHESON

[Translation]

FEDERAL REPUBLIC OF GERMANY

*Bonn, May 27, 1952*

His Excellency  
Secretary of State  
of the United States of America

DEAN ACHESON

Mr. SECRETARY:

In the name of the Government of the Federal Republic of Germany, I have the honor to inform you of the following:

In respect of civil aircraft, none are being produced in the Federal Republic at the present time, nor are there any facilities available for such production. The Government of the Federal Republic intends to purchase from other countries such civil aircraft as may be required in Germany. If in the future conditions



should change, the Federal Republic will seek agreement on this matter with the Governments of the United States, United Kingdom and France in the light of the situation then prevailing.

I like this occasion, Mr. Secretary, to assure you of my highest consideration.

ADENAUER

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[Paris]

MAY 27, 1952

His Excellency Dr. KONRAD ADENAUER,  
*Chancellor of the Federal Republic of Germany.*

DEAR MR. CHANCELLOR:

I have the honor to acknowledge receipt of your letter of May 27, 1952 which reads in translation as follows:

“In respect of civil aircraft, none are being produced in the Federal Republic at the present time, nor are there any facilities available for such production. The Government of the Federal Republic intends to purchase from other countries such civil aircraft as may be required in Germany. If in the future conditions should change, the Federal Republic will seek agreement on this matter with the Governments of the United States, United Kingdom and France in the light of the situation then prevailing.”

The Government of the United States has taken note of these assurances with satisfaction.

Sincerely,

(Signed) DEAN ACHESON

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[Translation]

FEDERAL REPUBLIC OF GERMANY  
*Bonn, May 27, 1952*

His Excellency  
Secretary of State  
of the United States of America  
DEAN ACHESON

MR. SECRETARY:

In the name of the Government of the Federal Republic of Germany, I have the honor to inform you of the following:

Upon ratification of the Treaty establishing the European Defence Community the content of the Treaty will become German domestic law. This accordingly applies likewise in regard to the provisions concerning the limitation of armaments production in the member states of the European Defence Community. The prohibitions laid down also have effect as regards the United Kingdom and the United States.

I like this occasion, Mr. Secretary, to assure you of my highest consideration.

ADENAUER



[Paris]

MAY 27, 1952

His Excellency Dr. KONRAD ADENAUER,  
*Chancellor of the Federal Republic of Germany.*

DEAR MR. CHANCELLOR:

I have the honor to acknowledge receipt of your letter of May 27, 1952 which reads in translation as follows:

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The Government of the United States has taken note of these assurances with satisfaction.

Sincerely,

(Signed) DEAN ACHESON



EDITORIAL

The American Medical Association is a body of men who are interested in the health of the people. They are interested in the health of the people in the same way that a farmer is interested in the health of his crops. They are interested in the health of the people in the same way that a merchant is interested in the health of his business. They are interested in the health of the people in the same way that a statesman is interested in the health of his country. They are interested in the health of the people in the same way that a soldier is interested in the health of his army. They are interested in the health of the people in the same way that a sailor is interested in the health of his ship. They are interested in the health of the people in the same way that a statesman is interested in the health of his country. They are interested in the health of the people in the same way that a soldier is interested in the health of his army. They are interested in the health of the people in the same way that a sailor is interested in the health of his ship.

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[Translation]

## TREATY CONSTITUTING THE EUROPEAN DEFENSE COMMUNITY

The President of the Federal Republic of Germany, His Majesty the King of the Belgians, the President of the French Republic, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands,

Resolved to contribute to the maintenance of peace, particularly by ensuring the defense of Western Europe against any aggression, in cooperation with the free nations, in the spirit of the United Nations Charter, and in close liaison with organizations having the same purpose;

Considering that as complete an integration as possible, compatible with military requirements, of the human and material elements gathered in their Defense Forces within a supranational European organization is the most appropriate means of reaching this goal with all the necessary rapidity and effectiveness;

Certain that such integration will result in the most rational and economic utilization of the resources of their countries, as a result, particularly, of the establishment of a common budget and of common armament programs;

Determined to ensure in this way the development of their military power without prejudicing social progress;

Desirous to safeguard the spiritual and moral values which are the common heritage of their peoples, and convinced that within a common army constituted without discrimination among the participating States national patriotisms, far from being weakened, can only become consolidated and reconciled in a broader framework;

Conscious that they are thus taking a new and essential step on the road to the formation of a united Europe;

Have decided to create a European Defense Community and to this end have designated as plenipotentiaries:

\* \* \* \* \*

Who, after having exchanged their full powers and found them in good and due form, have agreed upon the provisions which follow.

### TITLE I—FUNDAMENTAL PRINCIPLES

#### *Chapter I—The European Defense Community*

##### ARTICLE 1

By the present Treaty the High Contracting Parties institute among themselves a European Defense Community, supranational in character, consisting of common institutions, common armed Forces and a common budget.



## ARTICLE 2

1. The objectives of the Community shall be exclusively defensive.

2. Consequently, under the conditions provided for in the present Treaty, it shall ensure the security of the member States against any aggression by participating in Western Defense within the framework of the North Atlantic Treaty and by accomplishing the integration of the defense forces of the member States and the rational and economic utilization of their resources.

3. Any armed aggression directed against any one of the member States in Europe or against the European Defense Forces shall be considered as an attack directed against all of the member States.

The member States and the European Defense Forces shall furnish to the State or Forces thus attacked all military and other aid and assistance in their power.

## ARTICLE 3

1. The Community shall accomplish the goals assigned to it by employing the least burdensome and most efficient methods. It shall intervene only to the extent necessary for the fulfillment of its mission and with due respect to public liberties and the fundamental rights of the individual. It shall see to it that the proper interests of member States are taken into consideration to the full extent compatible with its own essential interests.

2. In order to enable the Community to accomplish its mission, the member States shall place at its disposal appropriate contributions determined under the provisions of Articles 87 and 94 below.

## ARTICLE 4

The Community shall pursue its action in cooperation with the free nations and with all organizations whose goals are the same as that of the Community.

## ARTICLE 5

The Community shall cooperate closely with the North Atlantic Treaty Organization.

## ARTICLE 6

The present Treaty does not involve any discrimination among the member States.

## ARTICLE 7

The Community shall have juridical personality.

In its international relations, the Community shall enjoy the juridical capacity necessary to the exercise of its functions and the attainment of its ends.

In each of the member States, the Community shall enjoy the most extensive juridical capacity with which legal entities of the nationality of the country in question are endowed. Specifically, it may acquire and transfer real and personal property, and may sue and be sued in its own name.



The Community shall be represented by its institutions, each one of them acting within the framework of its own powers and responsibilities.

#### ARTICLE 8

1. The institutions of the Community shall be:

—A Council of Ministers, hereinafter called the Council.

—A Common Assembly, hereinafter called the Assembly.

—A Commissariat of the European Defense Community, hereinafter called the Commissariat.

—A court of Justice, hereinafter called the Court.

2. Without prejudice to the provisions of Article 125 below, the structure of these institutions as established by the present Treaty shall remain in effect until it is replaced by a new one, resulting from the establishment of a federal or confederal organization as provided in Article 38 below.

### *Chapter II—The European Defense Forces*

#### ARTICLE 9

The Armed Forces of the Community, hereinafter called “European Defense Forces” shall be composed of contingents placed at the disposal of the Community by the member States with a view to their fusion under the conditions provided for in the present Treaty.

No member State shall recruit or maintain national armed forces aside from those provided for in Article 10 below.

#### ARTICLE 10

1. The member States may recruit and maintain national armed forces intended for use in the non-European territories with respect to which they assume defense responsibilities, as well as units stationed in their countries which are required for the maintenance of these forces and for their relief.

2. The member States may also recruit and maintain national armed forces required for international missions assumed by them in Berlin, in Austria or by virtue of a decision of the United Nations. At the termination of these missions, these troops shall be either disbanded or placed at the disposal of the Community. Relief for these troops may be effected, with the consent of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, by exchange with units composed of contingents originating from the member States in question which belong to the European Defense Forces.

3. In each member State elements intended as a bodyguard for the Chief of State shall remain national.

4. The member States may dispose of national naval Forces, on the one hand for the protection of non-European territories for which they assume defense responsibilities as mentioned in Section 1 of this Article and for the protection of communications with and among such territories, and on the other hand to fulfill the obligations falling to them as a result of assumption by them of international missions



mentioned in Section 2 of this Article or as a result of agreements entered into within the framework of the North Atlantic Treaty prior to the entry into effect of the present Treaty.

5. The total volume of national armed forces provided for in this Article, including support units, shall not be so great as to compromise the participation of each member State in the European Defense Forces as determined by agreement among the Governments of the member States.

The Member States shall have the right to exchange individual personnel between the contingents placed by them at the disposal of the European Defense Forces and the forces which are not a part thereof, provided no diminution in the European Defense Forces occurs as a result.

#### ARTICLE 11

Police forces and forces of gendarmerie, suitable exclusively for the maintenance of internal order, may be recruited and maintained on the territories of the member States.

The national character of these forces is not affected by the present Treaty.

The volume and nature of such forces existing on the territories of member States shall be such as not to exceed the limits imposed by their mission.

#### ARTICLE 12

1. In case of disturbances or threatened disturbances within the territory of a member State in Europe, such part of the contingents supplied by such State to the European Defense Forces as is necessary to meet the situation shall, on its request, the Council having been informed, be placed at its disposal by the Commissariat.

The conditions under which these elements may be employed shall be determined by the legislation in force in the territory of the member State making the request.

2. In case of disaster or calamity requiring immediate aid, elements of the European Defense Forces, which are in a position to be of use, shall give their aid without regard to their national origins.

#### ARTICLE 13

In case of a serious emergency affecting a non-European territory for which a member State assumes responsibilities of defense, such part of the contingents supplied by such State to the European Defense Forces as is necessary to meet the emergency shall, on its request and with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, be placed at its disposal by the Commissariat, the Council having been informed. The contingents thus released shall cease to be subject to the authority of the Community until such time as they are once again placed at its disposal when they are no longer needed to deal with the emergency.

The military, economic and financial implications of the withdrawal of contingents provided for in this Article shall, in each case, be examined and settled by the Commissariat with the concurrence of the Council given by a two-thirds majority vote.



## ARTICLE 14

In case an international mission to be accomplished outside the territory defined in Section 1, Article 120 is entrusted to a member State, such part of the contingents supplied by such State to the European Defense Forces as is necessary to accomplish the mission shall, on its request and with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, be placed at its disposal by the Commissariat with the concurrence of the Council given by two-thirds majority vote. The contingents thus released shall cease to be subject to the authority of the Community until such time as they are once again placed at its disposal when they are no longer needed for the accomplishment of a mission herein provided for.

The provisions of the second paragraph of Article 13 above shall be applicable.

## ARTICLE 15

1. The European Defense Forces shall consist of conscripted personnel and of professional personnel serving for a long term by voluntary enlistment.

2. The European Defense Forces shall be integrated in accordance with the organic provisions of Articles 68, 69 and 70 below.

They shall wear a common uniform.

They shall be organized according to types defined in the Military Protocol. Such organization may be modified by unanimous decision of the Council.

3. The contingents destined to make up the units of the European Defense Forces shall be furnished by the member States in accordance with a plan to be established by agreement among the Governments concerned. This plan may be revised in accordance with the provisions of Article 44 below.

## ARTICLE 16

The internal defense of the territories of the member States against attacks of any nature having military ends and provoked or carried out by an external enemy shall be ensured by homogeneous formations of European status, which shall be specialized in each country in accordance with the particular defense mission required by its territory, and the operational command of which shall be exercised as provided in Article 18 below.

## ARTICLE 17

The protection of the civilian population (civil defense) shall be ensured by each of the member States.

## ARTICLE 18

1. The competent Supreme Commander responsible to the North Atlantic Treaty Organization shall, except as provided in Section 3 of this Article, be empowered to satisfy himself that the European Defense Forces are organized, equipped, trained and prepared for use in a satisfactory manner.



As soon as they are ready for use, the European Defense Forces shall, except as provided in Section 3 of this Article, be at the disposal of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, who shall exercise with respect to them the powers and responsibilities accruing to him under his terms of reference and shall, in particular, submit to the Community his needs as regards the articulation and deployment of these Forces; the plans corresponding to these needs shall be executed in accordance with the provisions of Article 77 below.

The European Defense Forces shall receive technical directives from the appropriate bodies of the North Atlantic Treaty Organization within the framework of the military competence of such bodies.

2. During wartime, the competent Supreme Commander of the North Atlantic Treaty Organization shall exercise with regard to the Forces provided for above the full powers and responsibilities of Supreme Commanders, such as these are conferred upon him by his terms of reference.

3. In the case of units of the European Defense Forces assigned to internal defense and to the protection of the maritime approaches to the territories of the member States, the authorities which shall command and employ such units shall be determined either by North Atlantic Treaty Organization conventions concluded within the framework of the North Atlantic Treaty or by agreements between the North Atlantic Treaty Organization and the Community.

4. If the North Atlantic Treaty should cease to be in effect before the present Treaty, the member States shall, by agreement among themselves, decide upon the authority to which the command and employment of the European Defense Forces shall be entrusted.

## TITLE II—THE INSTITUTIONS OF THE COMMUNITY

### *Chapter I—The Commissariat*

#### ARTICLE 19

The Commissariat, with a view to carrying out the tasks assigned to it by virtue of the present Treaty, shall be vested with executive and supervisory powers as provided in the present Treaty.

#### ARTICLE 19 BIS

The Commissariat shall assume its functions as of the appointment of its members.

#### ARTICLE 20

1. The Commissariat shall be composed of nine members appointed for six years and chosen for their general competence.

Only nationals of the member States may be members of the Commissariat. It may not include more than two members of the same nationality.

Members shall be eligible for reappointment. The number of members of the Commissariat may be reduced by unanimous decision of the Council.



2. In the discharge of their duties, the members of the Commissariat shall neither solicit nor accept instructions from any Government. They will abstain from all conduct incompatible with the supranational character of their functions.

Each member State agrees to respect this supranational character and to make no effort to influence the members of the Commissariat in the execution of their task.

The members of the Commissariat shall not exercise any other professional activity during their terms of office.

For three years immediately following the termination of his term of office, no former member of the Commissariat shall engage in any professional activity which the Court, before which he or the Council may have brought the question, may declare to be incompatible with obligations resulting from his tenure of office because of its connection with the functions of such office. In case of violation of this provision, the Court may decree the forfeiture of the pension rights of the persons concerned.

#### ARTICLE 21

1. The Governments of the member States shall appoint the members of the Commissariat by agreement among themselves.

2. The members appointed for the first time following the entry of the Treaty into effect shall hold office for a period of three years following their appointment.

In case a vacancy should occur during this first period for one of the reasons set forth in Article 22 below, such vacancy shall be filled in accordance with the provisions of Section 1 of this Article.

The same procedure shall apply to the general reappointment rendered necessary in case Section 2 of Article 36 below should be applied.

3. At the expiration of the initial period of three years, a general reappointment shall take place.

4. Afterwards, one-third of the members of the Commissariat shall be reappointed every two years.

Immediately after the general reappointment provided for in Section 3 of this Article, the Council shall determine by lot the members whose terms of office shall end respectively after the first and after the second two-year periods.

5. If the members of the Commissariat should vacate their offices pursuant to the provisions of Section 2, Article 36, below, the provisions of Sections 3 and 4 of this Article shall be applicable.

#### ARTICLE 22

Aside from regular reappointments, terms of office of individual members of the Commissariat may be ended by death, resignation or removal.

A deceased, resigned or removed member shall be replaced, for the remaining period of his term of office, in accordance with the provisions of Article 21 above. There shall be no replacement if the remaining period of such member's terms of office comes to less than three months.



## ARTICLE 23

Members of the Commissariat who no longer fulfill the conditions necessary to the exercise of their functions or who have committed serious offenses may be removed from office by the Court on petition of the Council or of the Commissariat.

In such a case, the Council, by unanimous vote, may temporarily suspend members of the Commissariat and provide for their replacement until such time as the Court shall have acted.

## ARTICLE 24

1. Decisions of the Commissariat are taken by a majority of members present. The President shall cast tie-breaking votes. Nevertheless, no decision may be taken by fewer than four affirmative votes.

2. The internal regulations shall fix the quorum. The quorum shall consist of no fewer than five members.

3. Should the Council, pursuant to the provisions of Section 1 of Article 20 decide to reduce the number of members of the Commissariat, it shall, under the same conditions, appropriately modify the figures set in the preceding Sections of this Article.

## ARTICLE 25

1. The Governments of the member States shall appoint the President of the Commissariat from among its membership by agreement among themselves.

The President's term of office shall be four years. He shall be eligible for reappointment. His term of office may end under the same circumstances as those of members of the Commissariat.

2. The President shall not be included in any determination by lot which could result in abridging his term of office as President by causing the expiration of his term of office as a member of the Commissariat.

When the President is chosen from among members of the Commissariat already in office, the length of his term of office as a member of the Commissariat shall be extended until the expiration of his term of office as President.

3. Except in the case of a general reappointment the President shall be designated after consultation of the members of the Commissariat.

## ARTICLE 25 BIS

1. The term of office of the first President shall end after three years.

## ARTICLE 26

1. The Commissariat shall establish general organizational regulations which will determine principally:

a. On the basis of the principle of collegiate responsibility, the categories of decisions which should be taken collectively by the Commissariat and those which might be delegated to mem-



bers of the Commissariat to be taken individually within their respective fields of competence.

b. The distribution of the tasks of the Commissariat among its members, bearing in mind the necessity for a stable structure while at the same time leaving open the possibility of changes which experience may demonstrate to be necessary; this distribution shall not necessarily correspond to the number of members of the Commissariat.

2. Within the framework of these regulations:

a. The Commissariat shall determine the respective duties of its members.

b. The President

shall coordinate the exercises of these duties,

shall insure the execution of decisions of the Commissariat, and

shall be responsible for the administration of the services.

In the case and under the conditions provided for in Article 123 below, the President may be temporarily vested with special powers.

ARTICLE 27

In the exercise of its powers, the Commissariat shall take decisions, make recommendations and issue opinions.

Decisions shall be binding in all their details.

Recommendations shall be binding with respect to the objectives which they specify, but shall leave to those to whom they are directed the choice of appropriate means for attaining these objectives.

Opinions shall not be binding.

In cases in which the Commissariat is empowered to issue a decision, it may limit itself to making a recommendation.

ARTICLE 28

All decisions and recommendations as well as all opinions of the Commissariat shall be published or registered in accordance with rules to be established by the Council.

Decisions, recommendations or opinions of the Commissariat directed to the Government of a member State shall be addressed to the authority designated for this purpose by such State.

ARTICLE 29

The Commissariat shall report to the Council at periodic intervals.

It shall supply the Council with information requested of it by the Council and shall undertake studies at its request.

The Commissariat and the Council shall exchange information and have reciprocal consultations.

ARTICLE 30

The Commissariat shall have at its disposal the civilian and military personnel necessary to permit it to assume all the tasks assigned to it by the present Treaty.



The services which the Commissariat establishes to this end, civilian as well as military, shall be responsible to it by the same authority and on the same level and in the same manner.

#### ARTICLE 31

1. Ranks higher than Commander of a basic unit of homogeneous nationality shall be conferred by the Commissariat with the unanimous concurrence of the Council.

2. For a temporary period, ranks in units of homogeneous nationality of the European Defense Forces, and all other ranks, shall be conferred, at the option of each member State :

either by the appropriate national authority upon the recommendation of the Commissariat,

or by the Commissariat upon recommendation coming through the appropriate chain of command, after consultation with national authorities.

3. (a) Assignments of Commanders of basic units, of general, officers to posts involving the exercise of authority over elements of more than one nationality, and assignments to certain high positions with the Commissariat designated by the Council, shall be made by the Commissariat with the unanimous concurrence of the Council.

(b) All other military assignments shall be made by the Commissariat, having due regard for the recommendations of appropriate command echelons.

4. Appointments of civilian heads of services directly responsible to the Commissariat shall be made by the latter with the unanimous concurrence of the Council.

#### ARTICLE 32

The Commissariat shall ensure that all necessary liaison with the member States, with other States, and in general, with all international organizations whose cooperation is needed in carrying out the objectives of the present Treaty.

### *Chapter II—The Assembly*

#### ARTICLE 33

1. The Assembly of the European Defense Community is the Assembly provided for in Articles 20 and 21 of the Treaty of April 18, 1951 establishing the European Coal and Steel Community, completed, as regards the German Federal Republic, France and Italy, by three further delegates each, who shall be elected under the same conditions and for the same terms as the other delegates, and whose first terms of office shall expire at the same time as theirs.

The Assembly so completed shall exercise the powers conferred on it by the present Treaty. If it deems it necessary, it may elect its own President and officials and draw up its own internal regulations.

2. If the Conference provided for in the last paragraph of Article 38 below has not reached an agreement within one year after its convocation, the member States by agreement among themselves shall pro-



ceed to a revision of the provisions of Section 1 of this present Article without waiting for the Conference to finish its work.

#### ARTICLE 34

The Assembly shall hold an annual session. It shall meet in regular session the last Tuesday in October. The length of this session shall not exceed one month.

The Assembly may be convened in an extraordinary session at the request of the Commissariat, the Council, the President of the Assembly or the majority of its members, or, in the case provided for in Article 46 below, at the request of a member State.

#### ARTICLE 34 BIS

The Assembly shall meet one month after the date on which the Commissariat shall have assumed its functions; it shall be called into session by the Commissariat. The provisions of Article 34 relative to the duration of regular sessions of the Assembly shall not be applicable to the first session.

As soon as it meets, the Assembly shall be empowered to perform the duties assigned to it by the present Treaty, with the exception of voting on a motion of censure provided for in Section 2 of Article 36 below. Such a vote may come only at the end of one year following the date on which the Commissariat shall have assumed its functions.

#### ARTICLE 35

The members of the Commissariat may attend all sessions of the Assembly. The President or any members of the Commissariat designated by the Commissariat for this purpose, shall be heard upon their request. The Commissariat shall reply, orally or in writing, to questions which are put by the Assembly or by its members.

The members of the Council may attend all sessions and shall be heard on their request.

#### ARTICLE 36

1. The Commissariat shall each year make to the Assembly a general report concerning the former's activity, which shall be presented one month before the opening of the regular session. The Assembly shall discuss this report and may formulate comments and express its wishes or suggestions.

2. If a motion of censure concerning the operations of the Commissariat is presented to the Assembly, a vote may be taken thereon only after a period of not less than three days following the introduction of such motion, and such vote shall be by open ballot.

If the motion of censure is adopted by two-thirds of the members present and voting, representing a majority of the total membership, the members of the Commissariat shall resign in a body. They shall continue to carry out current business until their replacement in accordance with Article 21 above.

#### ARTICLE 37

The Assembly shall adopt its own internal rules of procedure by vote of a majority of its membership.



Acts of the Assembly shall be published when and as provided by the Assembly.

#### ARTICLE 38

1. Within the period provided for in Section 2 of this Article, the Assembly shall study:

(a) the creation of an Assembly of the European Defense Community elected on a democratic basis;

(b) the powers which might be granted to such an Assembly; and

(c) the modifications which should be made in the provisions of the present Treaty relating to the other institutions of the Community, particularly with a view to safeguarding an appropriate representation of the States.

In its work, the Assembly will particularly bear in mind the following principles:

The definitive organization which will take the place of the present transitional organization should be conceived so as to be capable of constituting one of the elements of an ultimate Federal or confederal structure, based upon the principle of the separation of powers and including, particularly, a bicameral representative system.

The Assembly shall also study problems to which the co-existence of different organizations for European cooperation, now in being or to be created in the future, give rise, in order to ensure that these organizations are coordinated within the framework of the federal or confederal structure.

2. The proposals of the Assembly shall be submitted to the Council within six months from the date on which the Assembly shall have assumed its functions. These proposals will then be forwarded, together with the opinion of the Council, by the President of the Assembly to the Governments of the member States, which, within three months from the date of the receipt of these proposals, shall call a conference for the purpose of examining them.

### *Chapter III—The Council*

#### ARTICLE 39

1. The general task of the Council is to harmonize the actions of the Commissariat with the policies of the Governments of the member States.

2. The Council may, within the framework of the present Treaty, issue directives for the action of the Commissariat.

These directives shall be issued by unanimous vote.

Concerning matters which have not been the subject of directives by the Council, the Commissariat may take action, subject to the provisions of the present Treaty, with a view to ensuring the fulfillment of the objectives of the present Treaty.

3. In conformance with the provisions of the present Treaty, the Council:

a) shall take decisions.

b) shall issue concurrences which the Commissariat shall be bound to obtain before making decisions or issuing recommendations.



4. Unless otherwise provided in the present Treaty, the decisions of the Council shall be taken and its opinions issued by a simple majority.

5. Whenever the Council is consulted by the Commissariat, it shall deliberate without necessarily proceeding to a vote. The minutes of these deliberations shall be transmitted to the Commissariat.

#### ARTICLE 40

The Council shall be composed of representatives of the member States.

Each member State shall designate thereto a member of its government who may be represented by a Deputy.

The Council shall be organized so as to be able to exercise its functions at all times. To this end, each member State shall at all times have a representative able to participate in the deliberations of the Council without delay.

The Presidency of the Council shall be exercised for a term of three months by each member of the Council in rotation in the alphabetical order of the member States.

#### ARTICLE 41

The Council shall meet as often as necessary and at least every three months. It shall meet upon convocation by its President, at the initiative of the President, of one of its members or of the Commissariat.

#### ARTICLE 41 BIS

The Council shall meet as soon as the Treaty has entered into effect.

#### ARTICLE 42

In case of a vote, a member of the Council may act as proxy for not more than one other member.

#### ARTICLE 43

1. Whenever the present Treaty requires a concurrence or a decision of the Council by a simple majority, such concurrence or decision shall be deemed to be granted or taken if it is approved :

either by an absolute majority of the representatives of the member States ;

or, in case of an equal division of votes, by the votes of representatives of the member States which together place at the disposal of the Community at least two-thirds of the total contributions of the member States.

2. Whenever the present Treaty requires a concurrence or a decision of the Council by a qualified majority, such concurrence or decision shall be deemed to have been granted or taken by such a majority :

either if such majority includes the votes of the representatives of the member States which together place at the disposal of the Community at least two-thirds of the total contributions of the member States ;



or if it receives the votes of the representatives of five member States.

3. Whenever the present Treaty requires a concurrence or a decision of the Council by unanimous vote, such concurrence or decision shall be deemed to have been granted or taken if it is approved by the votes of all the members present or represented on the Council. Abstentions shall not prevent the adoption of such concurrence or decision.

4. In Sections 1 and 2 of this Article, the word "contributions" shall be understood to mean the average between the percentage of the financial contributions actually paid during the previous fiscal year and the percentage of men making up the European Defense Forces on the first day of the current half year.

#### ARTICLE 43 BIS

1. For purposes of the application of Section 4 of Article 43 above, until the date set for the complete execution of the plan for the formation of the first echelon of the forces, the average contributions furnished by the member States, which are provided for in the said Section, shall be evaluated on a forfeitary basis as follows: Germany—3, Belgium—2, France—3, Italy—3, Luxembourg—1, The Netherlands—2.

2. During the transitional period defined in Section 1 of this Article, the requirement of a percentage of the total contributions of the member States established by Article 43, Section 1 above shall be considered to have been met whenever at least nine-fourteenths of the total value of the contributions of the member States as evaluated on a forfeitary basis is reached.

#### ARTICLE 44

Modifications in texts defining the status of personnel and in texts establishing the general organization, recruitment rules and the size and structure of the forces, as well as modifications in the plan establishing the European Defense Forces, shall be made by unanimous agreement of the Council, upon the proposal of a member of the Council or of the Commissariat, and shall be executed by the latter.

#### ARTICLE 45

The Council shall determine the salary, emoluments and pension rights of the President and members of the Commissariat.

#### ARTICLE 46

The Council, acting by a two-thirds majority, may, on the initiative of one of its members, invite the Commissariat to take any measure within the limits of its competence.

If the Commissariat does not act on such invitation, the Council or a member State may refer the matter to the Assembly for purposes of action under Section 2, Article 36 above.



## ARTICLE 47

The Council shall decide when it is appropriate to call a joint meeting with the Council of the North Atlantic Treaty Organization.

Decisions taken unanimously in the course of joint meetings of the two Councils shall be binding on the institutions of the Community.

## ARTICLE 48

The decision of the Council provided for in paragraph 4 of the Protocol Concerning Relations between the North Atlantic Treaty Organization and the European Defense Community shall be taken unanimously.

## ARTICLE 49

The minutes of the meetings of the Council shall be communicated to the member States and to the Commissariat.

## ARTICLE 50

The Council shall establish its own rules of procedure.

*Chapter IV—The Court*

## ARTICLE 51

The function of the Court is to ensure the rule of law in the interpretation and application of the present Treaty and implementing regulations.

## ARTICLE 52

The Court is the Court of Justice of the European Coal and Steel Community.

## ARTICLE 53

For the discharge of its functions, the Court shall, in cases and in the manner provided for in the annexed protocols, be assisted by a judicial system including particularly subordinate courts which shall be European in character.

## ARTICLE 54

1. The Court shall have jurisdiction to hear appeals from decisions or recommendations of the Commissariat, by a member State, by the Council or by the Assembly on grounds of lack of legal competence, substantial procedural violations, violation of the present Treaty or of any rule of law relating to its application, or abuse of power.

2. Such appeals must be taken within a maximum period of one month following either the publication or registration of the decision or recommendation in question.

3. If the court should annul a decision or recommendation of the Commissariat, the matter shall be remanded to the Commissariat which shall take the measures necessary to give effect to the judgment of annulment.



## ARTICLE 55

1. If the Commissariat is required by a provision of the present Treaty or of implementing regulations to issue a decision or recommendation and fails to fulfill this obligation, such omission may be brought to its attention by the member States or by the Council.

The same shall be true if the Commissariat refrains from issuing a decision or recommendation which it is empowered to issue by a provision of the present Treaty or of implementing regulation where such failure to act constitutes an abuse of power.

2. If at the end of a period of two months the Commissariat has not issued any decision or recommendation, an appeal may be brought before the Court, within a period of one month, against the implicit negative decision which is presumed to result from such failure to act.

## ARTICLE 56

1. If a member State feels that, in a given case, an action or lack of action on the part of the Commissariat may provoke, as concerns such State, fundamental and persistent disturbances, it may so inform the Commissariat.

After consulting with the Council, the Commissariat shall, if appropriate, recognize the existence of such a situation and decide upon the measures to be taken under the provisions of the present Treaty to end such a situation while at the same time safeguarding the essential interests of the Community. The Commissariat shall make its decision within a two-week period.

2. If an appeal grounded on the provisions of this Article is made to the Court against this decision or against the explicit or implicit decision refusing to recognize the existence of the situation indicated above, the Court shall decide the merits of the case and shall provisionally take all necessary measures.

3. If a decision of the Commissariat is annulled, the latter shall decide upon measures to be taken to achieve the ends provided for in Section 1 of this Article, within the framework of the decree of the Court.

## ARTICLE 57

The Court shall have jurisdiction to hear appeals from decisions of the Council by a member State, by the Commissariat or by the Assembly on grounds of lack of legal competence, substantial procedural violations, violation of the present Treaty or of any rule of law relating to its application, or abuse of power.

2. Such appeals must be taken within one month following the date on which the decision of the Council is communicated to the member States or to the Commissariat.

## ARTICLE 58

1. The Court may annul decisions of the Assembly on the motion of a member State or of the Commissariat.

The jurisdiction of the Court may be invoked under this Article only on grounds of lack of legal competence to act or of substantial procedural violations.



2. The jurisdiction of the Court may be invoked under this Article only within a period of one month following the date of publication of the Assembly's decision in question.

#### ARTICLE 59

Appeals to the Court shall not have the effect of suspending the execution of a decision or a recommendation.

However, if in its judgment circumstances demand it, the Court may order the suspension of the execution of the decision or recommendation in question.

The Court may prescribe any other necessary provisional measures.

#### ARTICLE 60

The Court shall have jurisdiction, in the cases and in the manner provided for in the annexed protocols, to hear controversies concerning the civil liability of the Community or the legal status of its agents.

#### ARTICLE 61

The Court shall have jurisdiction to hear criminal matters in cases and in the manner provided for in the annexed protocol.

#### ARTICLE 61 BIS

Transitional provisions contained in the protocol mentioned in Article 61 above shall be applicable until such time as a common military criminal code comes into effect.

#### ARTICLE 62

When the validity of decisions or recommendations of the Commissariat or decisions of the Council is contested in litigation before a national tribunal, such issue shall be certified to the Court, which shall have exclusive jurisdiction to rule thereon.

#### ARTICLE 63

Without prejudice to the provisions of the Code of Jurisdiction provided for in Article 67, the Court, in cases and in the manner provided for in its Code, shall have such jurisdiction as may be provided by any clause to such effect in a public or private contract to which the Community is a party or which is undertaken for its account.

#### ARTICLE 64

The Court shall have jurisdiction in any other case provided for in the present Treaty.

The Court may also exercise jurisdiction in any case relating to the objectives of the present Treaty, where the laws of a member State grant such jurisdiction to it.



## ARTICLE 65

1. Any difference among the member States concerning the application of the present Treaty which cannot be settled by other means may be submitted to the Court either at the common request of States which are parties to the dispute or at the request of one of the States.

2. The Court shall also have jurisdiction over any differences among the member States relating to the objectives of the present Treaty if such differences are submitted to it pursuant to a compromise agreement.

## ARTICLE 66

Judgments of the Court shall be enforceable on the territories of the member States.

Execution of such judgments on the territory of a member State shall be in accordance with the laws in force in such State; in particular, there may be no execution of such a judgment in a member State which would not be permitted by the generally applicable legislation of such State.

Execution of judgments of the Court shall take place after the judgment formula in use in the territory of the State concerned has been appended; no other action shall be necessary with respect to a judgment of the Court other than verification of its authenticity. These formalities with respect to the judgments of the Court shall be carried out by a Minister designated for that purpose by each of the governments.

## ARTICLE 67

The application of the provisions of this chapter and of the Protocol concerning Jurisdiction shall be regulated by a Code of Jurisdiction which shall be enacted in the form of a convention among the member States and which shall, in particular, make the modifications necessary to ensure such application in the Code of the Court as annexed to the Treaty establishing the Community.

## TITLE III—MILITARY PROVISIONS

*Chapter I—Organization and Administration of the European Defense Forces*

## ARTICLE 68

1. The basic units in which the activity of the various branches of service making up the Ground Forces are to be combined shall be composed of elements of the same national origin. These basic units shall be as light as possible while maintaining necessary effectiveness. To the extent possible, they shall be relieved of logistic functions, and shall depend for their existence and maintenance upon higher integrated echelons.

2. The Army Corps shall be composed of basic units of different national origins, except in special cases resulting from tactical needs or organizational necessities and determined by the Commissariat on the recommendation of the competent Supreme Commander responsible to the North Atlantic Treaty Organization; in such cases the Com-



missariat shall make its determination with the unanimous concurrence of the Council. Their tactical support units as well as their logistical support formations shall be integrated; but constituent units of regiment or battalion size shall remain homogeneous and their distribution among nationalities shall be made according to the proportion existing among the basic ground units. The Command and Headquarters of the Army Corps shall be integrated; such integration shall be effected in the manner best suited to ensuring effectiveness in their utilization.

3. The basic units and their support troops and services may occasionally be brought into Army Corps subject to the authority of the North Atlantic Treaty Organization, and reciprocally, subject to the authority of the North Atlantic Treaty Organization, divisions may be brought into European Army Corps.

The Commanding echelons of Forces subject to the authority of the North Atlantic Treaty Organization, to which the European units shall be attached organically shall integrate elements coming from these units and vice-versa.

#### ARTICLE 69

1. The basic Air Force units shall be composed of elements of the same national origin, each of which shall have homogeneous combat matériel corresponding to a given basic mission.

These basic units shall, as far as possible, be relieved of their logistical functions and shall depend upon higher integrated echelons for their supplies and maintenance.

2. A certain number of basic units of different national origins shall be grouped under the orders of integrated higher echelons, except in special cases resulting from tactical needs or organisational necessities and determined by the Commissariat on the recommendation of the competent Supreme Commander responsible to the North Atlantic Treaty Organization; in such cases the Commissariat shall make its determination with the unanimous concurrence of the Council. The logistic support formations shall be integrated; but the constituent service units shall remain of homogeneous national composition and their distribution among nationalities shall be made according to the proportion existing among the basic units.

3. European basic units as well as their support units may be brought under Commands responsible to the North Atlantic Treaty Organization and, reciprocally, basic units subject to the authority of the North Atlantic Treaty Organization may be brought under European Commands.

The Command echelons responsible to the North Atlantic Treaty Organization to which European units are attached organically shall integrate European elements and vice-versa.

#### ARTICLE 70

1. The European Naval Forces shall consist of formations which are assigned to the protection of the maritime approaches of the European territories of member States, determined by agreement between the governments.



2. Contingents of the European Naval Forces shall constitute homogeneous groupements European in status and shall all have the same tactical mission.

3. These groupements may occasionally, wholly or in part, be incorporated into formations subject to the authority of the North Atlantic Treaty Organization; in such cases, elements furnished by these groupements shall be integrated into the command echelons of such formations.

#### ARTICLE 71

With the unanimous concurrence of the Council, the Commissariat shall establish the plans for the organization of the Forces. The Commissariat shall ensure the execution of such plans.

#### ARTICLE 72

1. Personnel conscripted to serve in the European Defense Forces shall serve the same period of active duty.

2. The period of active duty service in the European Defense Forces shall be rendered uniform as soon as possible by unanimous decision of the Council on recommendation of the Commissariat.

#### ARTICLE 73

1. Recruitment for the European Defense Forces in each member State shall be carried out in accordance with laws of such State within the framework of the common principles defined in the Military Protocol.

2. The Commissariat shall oversee the recruiting operations for the European Defense Forces carried out by the member States in accordance with the provisions of the present Treaty, and, in order to ensure conformity with such provisions, shall, if necessary, make recommendations to the member States.

3. Beginning with a date fixed by common agreement among the governments of the member States, the Commissariat shall itself undertake recruiting in accordance with the provisions of such agreement and within the framework of the common principles laid down in the Military Protocol.

#### ARTICLE 74

1. The Commissariat shall direct the training and preparation of the European Defense Forces according to a common doctrine and uniform methods. In particular, the Commissariat shall direct the schools of the Community.

2. Upon the request of a member State, due regard shall be had, in the application of Section 1 of this Article, of the particular situation resulting for such State from the existence, by virtue of its Constitution, of more than one official language.

#### ARTICLE 75

The Commissariat shall draw up mobilization plans for the European Defense Forces, in consultation with the governments of the member States.



Without prejudice to the final organization to be established under the provisions of Article 38 above, the decision to proceed with mobilization shall be made by the member States; execution of mobilization measures shall be divided between the Community and the member States in a manner to be determined by agreements between the Commissariat and such States.

## ARTICLE 76

The Commissariat shall exercise the necessary powers of inspection and supervision.

## ARTICLE 77

1. The Commissariat shall determine the territorial deployment of the European Defense Forces within the framework of recommendations of the competent Supreme Commander responsible to the North Atlantic Treaty Organisation. In case of differences of opinion which cannot be settled with the latter, the Commissariat may set aside such recommendations only with the unanimous approval of the Council.

Within the framework of the general decisions provided for in Section 1 of this Article, the Commissariat shall take executive measures, after consultation with the State in which the troops are to be stationed.

2. In case of differences of opinion on essential points, the State in question may appeal to the Council. Such State must abide by the decision of the Commissariat if the Council upholds the latter by a two-thirds majority vote.

The privilege granted member States by Article 56 above shall not be affected by the provisions of this Article.

## ARTICLE 78

The Commissariat shall administer personnel and matériel in conformance with the provisions of the present Treaty.

It shall endeavor to ensure a distribution of armaments and equipment looking to uniformity within units of the European Defense Forces.

## ARTICLE 78 BIS

1. As soon as it takes up its duties, the Commissariat shall:

draw up plans for the formation and equipment of the first echelon of the Forces in accordance with the provisions of an agreement adopted by the member States and within the framework of North Atlantic Treaty Organization plans;

decide upon and organize the assistance to be requested from States parties to the North Atlantic Treaty in the training of contingents;

draw up summary provisional regulations on essential points.

2. As soon as it takes up its duties, the Commissariat shall undertake formation of the units of the first echelon of the Forces.

3. As soon as the Treaty comes into effect, the units already in existence and the contingents to be recruited by the member States to complete this first echelon shall immediately come under the authority of the Community and shall be placed under the jurisdiction of the



Commissariat, which shall exercise over them the powers granted it in the present treaty, under the conditions provided for in the Military Protocol.

4. The Commissariat shall submit to the Council as soon as possible the plans and projects provided for in Section 1 of this Article.

The Council shall approve:

unanimously, the plan for forming the first echelon of the Forces;

by a two-thirds majority, the other plans and projects.

The plans and projects shall be put into effect by the Commissariat as soon as they have been approved by the Council.

#### ARTICLE 79

A single general regulation concerning military discipline, which shall be applicable to the members of the European Defense Forces shall be enacted by agreement among the governments of the member States, ratified in accordance with the constitutional procedures of each such State.

### *Chapter II—Legal Status of the European Defense Forces*

#### ARTICLE 80

1. In the exercise of the functions assigned to it by the present Treaty, and without prejudice to the rights and obligations of the member States:

the Community shall have, in respect of the European Defense Forces and their members, the same rights and obligations as the States in respect of their national forces and their members, in accordance with customary international law;

the Community shall respect the rules embodied in conventions concerning the laws of war which bind one or more of its member States.

2. Consequently, European Defense Forces and their members shall benefit, under international law, from the same treatment as national forces and their members.

#### ARTICLE 81

The Community shall ensure that the European Defense Forces and their members conform in their conduct to the rules of international law. It shall ensure the punishment of all violations of such rules which may be committed by such Forces or their members.

2. The Community shall take, within the limits of its competence, penal measures and all other appropriate measures in all cases in which such a violation shall have been committed by the Forces of a third State or their members.

The member States shall likewise, on their part, within the limits of their competence, take penal measures and all other appropriate measures against all violations of rules of international law committed against the European Defense Forces or their members.



## ARTICLE 82

The legal status of the European Defense Forces shall be determined by a Protocol annexed to the present Treaty.

## TITLE IV—FINANCIAL PROVISIONS

## ARTICLE 83

The financial administration of the European Defense Community shall be carried out in accordance with the provisions of the present Treaty, the Financial Protocol and the financial regulations.

To ensure the respect of the provisions thus set forth, a Financial Comptroller and an Accounts Commission shall be created whose powers and responsibilities are defined in the following Articles.

## ARTICLE 84

The Financial Comptroller shall be independent of the Commissariat and responsible to the Council. He shall be appointed by unanimous vote of the Council. His term of office shall be five years. He may be reappointed.

## ARTICLE 85

The Accounts Commission shall be an independent collegial authority. Nationals of each of the member States shall be among its members.

The Council shall, by unanimous vote, determine the number of members of the Commission. The Council shall by two-thirds vote appoint members of the Commission and its President. The term of office of members of the Commission shall be five years. They may be reappointed.

## ARTICLE 86

As soon as the Treaty comes into effect, all the receipts and all the expenditures of the Community shall be written into an annual common budget.

The fiscal year of the Community shall begin on January 1. This date may be changed by decision of the Council.

## ARTICLE 87

1. In consultation with the Governments of the member States and having regard especially for the provisions of Article 71, the Commissariat shall prepare the budget of the Community. The draft of a common plan for armament, equipment, supply and infrastructure shall be annexed to the draft budget.

The receipts and expenditures of the institutions of the Community shall be dealt with in special sections within the general budget.

2. This draft shall be submitted to the Council at least three months before the beginning of the fiscal year.



Within a period of one month, the Council shall decide:

- a) unanimously, the total volume of the budget expressed in authorizations for cash outlays and contracting authorizations, and the amount of the contribution of each member State determined in conformance with Article 94 below; it shall be incumbent upon the government of each member State to ensure the inclusion of the amount determined as its contribution in its budget, in accordance with its constitutional rules;
- b) by a two-thirds majority, the distribution of expenditures.

The provisions of subparagraphs (a) and (b) of this Section shall not be applicable to the receipts and expenditures resulting from an agreement concerning foreign aid provided for in Article 99 below, nor to receipts and expenditures which merely transit through the common budget as provided in the Financial Protocol.

3. The common budget thus approved by the Council shall be forwarded to the Assembly, which shall take a vote on it not later than two weeks before the beginning of the fiscal year.

The Assembly may propose changes by annulling, reducing, increasing, or adding receipts or expenditures. These proposals may not have the effect of increasing the total amount of expenditures appearing in the budget adopted by the Council.

The Assembly, by a two-thirds majority of votes cast and a simple majority of its membership, may propose the rejection of the entire budget.

4. In all cases provided for in Section 3 of this Article, the Commissariat or a member State may, within fifteen days after the vote, ask the Council to undertake a second reading within two weeks. Propositions of the Assembly shall be adopted if the Council approves them by a two-thirds majority. If the Council has not been requested to undertake a second reading as herein provided within a fifteen-day period, the Assembly's proposal shall be considered to have been adopted by the Council.

#### ARTICLE 87 BIS

1. Notwithstanding the provisions of Article 87 above, the Council alone shall approve the budget for the period between the entry into effect of the Treaty and the end of the calendar year in question.

In the matter of expenditures, the military and financial programs of all of the member States for the build-up of units which are to constitute the European Forces shall be taken into account to the greatest extent possible in establishing this budget.

2. For the execution of this Budget, the Commissariat shall delegate to the appropriate national services the responsibility of carrying out, for its account, the expenditures for the European Defense Forces, to the extent that its own services do not allow it to perform these tasks.

3. Until the first common budget has been approved, the Community shall receive advances from the member States to enable it to meet its first expenses; these advances shall be credited later to their con-



tributions. Expenditures paid out of these advances shall be reinstated in the common budget.

The common budget for the first complete fiscal year following the entry into effect of the Treaty shall be prepared, approved and executed according to the general principles of the Treaty. However:

a) The contributions of the member States to the budget for this fiscal year shall be determined in accordance with the procedure adopted by the North Atlantic Treaty Organisation, to the exclusion of any other method;

b) At the request of any member State which feels that the common budget thus drawn up is not in accord with the intentions expressed by its Government or its Parliament, either as regards the fulfillment of its commitments to the North Atlantic Treaty Organisation or the means employed to carry out these commitments, the Community shall submit this budget to the competent authorities of the North Atlantic Treaty Organisation for their opinion.

#### ARTICLE 88

1. If, at the beginning of the fiscal year, the budget has not yet been finally approved, the Community shall be empowered to provide for its expenditures by monthly slices equal to  $\frac{1}{12}$  of the funds in the budget for the preceding year. This power shall end after three months. The expenditures may not exceed one fourth of expenditures for the preceding year.

In the case provided for in the preceding paragraph, the member States shall grant advances to the Community in accordance with the scale applicable in the preceding year. These advances shall be credited against their contributions.

If at the expiration of the time limit provided for in the first paragraph, the budget has not yet entered into force, the budget decided on by the Council shall enter into force, provided that the Assembly has had at least two weeks time to study it.

2. In case of necessity, the Commissariat may, during the course of the fiscal year, submit a supplementary budget which shall be approved in the same manner as the regular budget with the time limits reduced by half.

#### ARTICLE 89

1. The budget shall be subdivided into sections, chapters and articles. It shall be established in gross totals and shall contain all the receipts and all the expenditures of the Community.

In particular, it shall include the annual expenditures necessary for the execution of common plans for armament, equipment, supply and infrastructure for a period of several fiscal years.

2. The budget shall be established in a common currency chosen by the Council by two-thirds majority.

The relation between this common currency and the national currency shall be determined by the official rate of exchange indicated to the Community by each State.



## ARTICLE 90

1. The Commissariat may, within the limits of general or specific authorizations given it in the budget itself, by a two-thirds majority of the Council or by the financial regulations, transfer appropriations among the items of the budget for the administration of which it is responsible. Such transfers shall require the approval of the Financial Comptroller whenever they are made in virtue of a general authorization.

2. Under the same conditions, similar transfer powers shall be vested in other institutions of the Community with respect to appropriations for the administration of which they are responsible.

## ARTICLE 91

The execution of the budget shall be ensured by the Commissariat and by the other institutions of the Community in accordance with the provisions of the Financial Protocol.

In the establishment and execution of the budget, the institutions of the European Defense Community shall ensure that commitments taken by the member States with the North Atlantic Treaty Organisation are respected. Contracts made by the member States with third parties before the Treaty comes into force shall be executed unless they can be modified in the interest of the Community with the accord of the Government which signed them.

## ARTICLE 92

The execution of the budget shall be supervised by the Financial Comptroller.

All decisions of the Commissariat which commit expenditures shall be submitted for approval by the Financial Comptroller, who, by his signature, shall verify the budgetary regularity of the expenditure and its conformity with provisions of the financial regulations.

Without prejudice to the provisions of Articles 54 and 57, the Commissariat may override a refusal of signature by the Financial Comptroller, by sending the latter, in writing, a special requisition for the expenditure in question. After having received this requisition, the Financial Comptroller shall immediately report it to the Council; the latter shall consider the matter with the least possible delay.

After three months, the Financial Comptroller shall send a report on the execution of the budget to the Council, which shall transmit it to the Assembly. This report shall contain all appropriate observations concerning the financial management of the Commissariat.

The Financial Comptroller shall give his opinion on the budget drafts. This opinion shall be transmitted to the Commissariat. The Council shall add this opinion to the budget which it shall submit to the Assembly.

## ARTICLE 93

The receipts of the Community shall include :

- a) the contributions paid by the member States;
- b) miscellaneous receipts of the Community itself;



c) the sums which the Community may receive by virtue of articles 7 and 99.

The Community shall also have at its disposal end-item aid received by virtue of Articles 7 and 99.

#### ARTICLE 94

As soon as the Treaty enters into effect, the contributions of the member States shall be fixed by the Council in accordance with the procedure adopted by the North Atlantic Treaty Organisation.

The Council shall seek a proper method for determining the contributions which will ensure an equitable distribution of charges taking into account principally of the financial, economic and social capabilities of the member States. This method shall be adopted unanimously by the Council and shall be applied beginning with the fiscal year following its approval.

If there is no agreement on such a method, the contributions will continue to be determined in accordance with the procedure adopted by the North Atlantic Treaty Organisation.

#### ARTICLE 95

1. The contributions, determined in accordance with the preceding Articles, shall be payable monthly in the national currency, on the first day of each month. The Council, by unanimous decision, may accept the settlement by a State of its contribution in a currency other than its national currency.

2. In case of modification of the rate of exchange, the amounts remaining due on a contribution shall be adjusted on the basis of the new rate. However, as concerns sums corresponding to such adjustment, the debtor State may request that the total of such sums be limited to the loss suffered by the Community as a result of the modification in the rate of exchange. Such limitation shall be determined by unanimous decision of the Council.

The member States shall bear the entire burden of any additional expenditures on the Community's contracts which might result from the application of arrangements made by a member State in favor of contracting parties upon the occasion of a monetary reform.

3. If the real purchasing power of the currency is considerably inferior to its purchasing power at the time the budget was approved, without official modification of the rate of exchange, the Council of Ministers, at the request of the Commissariat or of a member State, shall study the measures to be taken to compensate for the loss which such a change may bring to the Community.

#### ARTICLE 96

In the establishment and execution of the budget, the Community shall endeavor to limit the monetary transfers among the member States or between them and other countries, which might affect the economic and monetary stability of the member States.

The financial regulation will indicate the method by which such monetary transfers shall be carried out.



If, as a result of the execution of the budget, the economic and monetary stability of a member State is affected, the Commissariat, at the request of that State and in agreement with the interested Governments, shall take the necessary corrective measures. If no agreement is reached on such measures, the Council, at the request of the Commissariat or of a member State, shall take the necessary steps as provided in the present Treaty.

The member States commit themselves to make more flexible in favor of the Community the restrictions imposed by their exchange legislation on international monetary transfers.

#### ARTICLE 97

1. The Accounts Commission shall verify accounts in accordance with the provisions of the financial regulation.

On the basis of vouchers, the Accounts Commission shall verify the regularity of operations and the proper use of appropriations in the budget of the Community. For this activity, it is authorized to request the assistance of the accounting agencies of the member States.

2. The report on the result of the auditing of accounts shall be presented to the Council, which shall transmit it to the Assembly not later than six months after the expiration of the fiscal year.

On the basis of this report, the Accounts Commission shall submit to the Council a proposal for the discharge of each institution from further responsibility concerning its financial management for the period in question. The Council shall adopt a position with regard to this proposal and shall present it to the Assembly, which shall act thereon.

The discharge shall be considered to have been granted unless it is refused by a two-thirds majority of votes cast and a simple majority of the Assembly's membership.

#### ARTICLE 98

The Governments of the member States may ask the Financial Comptroller and the Accounts Commission for copies of vouchers and other verifying documents which they use in connection with their duties.

#### ARTICLE 99

The Commissariat shall deal with questions concerning foreign financial and end-item aid furnished to the Community.

Any agreement concerning foreign aid furnished to the Community shall be approved by the Council notwithstanding special provisions of the Financial Protocol concerning foreign aid.

The Community may, with the unanimous approval of the Council, grant aid to third States in order to achieve the purposes defined in Article 2 above.

Any end-item aid intended for the European Defense Forces which the Community or the member States may receive shall be administered by the Commissariat.



The Council, by a two-thirds majority vote, shall be empowered to give general directives to the Commissariat in order to ensure that the latter's action concerning foreign aid does not endanger the economic, financial and social stability of one or more member States.

#### ARTICLE 100

The conditions of remuneration and the pension rights of the civil and military personnel employed by the Community are set forth in a Protocol annexed to the present Treaty.

### TITLE V—ECONOMIC PROVISIONS

#### ARTICLE 101

The Commissariat shall prepare in consultation with the Governments of the member States, the common armament, equipment, supply, and infrastructure programs of the European Defense Forces, and shall, in accordance with the provisions of Article 91, ensure their execution.

#### ARTICLE 102

1. In preparing and executing the programs, the Commissariat shall:

a) utilize in the best way possible the technical and economic capabilities of each of the member States and avoid causing serious disturbances in the economies of any of them;

b) take into account the amounts of contributions to be furnished by the member States, and respect the rules set forth in the present Treaty concerning monetary transfers;

c) in collaboration with the appropriate bodies of the North Atlantic Treaty Organization simplify and standardize armaments, equipment, supplies and infrastructure as much and as rapidly as possible.

2. The Council may give general directives to the Commissariat within the framework of the principles set forth above. These directives shall be issued by a two-thirds majority vote.

#### ARTICLE 103

1. The expenditures necessary for the execution of the common programs shall be included in the budget estimate, which shall include as an annex a statement indicating projected execution of the program as allocated by categories of products and by countries. Approval of the budget shall be considered approval of these programs.

2. The Commissariat is authorized to establish programs extending over a period of several years. It shall submit these programs to the Council and shall request approval in principle from this body of those parts of the programs which involve financial commitments extending over several years. This approval shall be granted by a two-thirds majority of the Council.

#### ARTICLE 104

1. The Commissariat shall be responsible for the execution of the programs in consultation with the Council and the Governments of the member States.



2. The Commissariat shall ensure the placing of contracts, and shall supervise their execution, deliveries and payments for construction, goods, and services.

The Commissariat shall organize decentralized civilian services in such a manner that they can use the resources of each member State under the most advantageous conditions for the Community.

3. Contracts may be placed only after calling for the most extensive possible competitive bidding except in cases in which military secrecy, technical factors and conditions of urgency defined in the regulation provided for in Section 4 below necessitate otherwise. Contracts shall be concluded after public or restricted bidding or without bidding (by mutual consent) with firms capable of fulfilling the conditions, and who are not excluded from public bidding for reasons independent of nationality. Exclusions based on nationality shall not be recognized as concerns nationals of the member States.

Within the framework of the provisions of Article 102 above, orders must be placed with the lowest bidders.

4. The procedures for placing contracts, and supervising the execution, receipt, and payment for construction, goods and services shall be determined by regulations. These regulations shall be submitted by the Commissariat for the approval of the Council by two-thirds majority vote. They can be amended by the same procedure.

5. Contracts above a certain amount shall be submitted by the Commissariat to a Contracts Committee including nationals of each of the member States.

If the Commissariat does not employ the advice of the Contracts Committee, it shall present a report to the Council giving its reasons.

The procedure for application of this Article shall be determined by regulations.

These regulations shall be submitted by the Commissariat for the approval of the Council by two-thirds majority vote. They may be amended by the same procedure.

6. In cases arising from contracts concluded between the Community and parties residing in one of the member States, the administrative or judicial nature of the controversy, the jurisdiction *ratione materiae* or *ratione loci* of an administrative or judicial tribunal as well as the applicable law shall be determined:

a) Where the dispute concerns real property, by the law of the place where the property is located;

b) In all other cases, by the law of the place where the supplier resides.

This rule may be changed by agreement between the parties, except as concerns the administrative or judicial nature of the competent jurisdiction and jurisdiction *ratione materiae*.

The Commissariat shall not normally have recourse to such agreements except in special cases or in order to give jurisdiction to a court operating under the authority of the Community.

7. If the Commissariat determines in the execution of the programs that national public policy or private practices or agreements tend to prevent or restrain seriously normal competitive conditions, it shall appeal to the Council, which shall decide unanimously on measures to remedy the situation.



The Council may be appealed to under the same conditions by a member State.

8. The regulations provided for in Sections 4 and 5 of Article 104 shall be submitted for the approval of the Council within six months after the entry into effect of the present Treaty.

Until these regulations are enacted, the Commissariat shall ensure the awarding of contracts in conformity with the legislative or administrative provisions in effect in the member States.

#### ARTICLE 105

If the Commissariat determines that the execution of all or part of a program is running into difficulties and cannot be executed, as a result, for instance, of an insufficient supply of raw materials, lack of equipment or plant or abnormally high prices, or that its execution cannot be ensured within the required time, it shall notify the Council and seek with it the appropriate means to eliminate those difficulties.

The Council by unanimous vote, in consultation with the Commissariat, shall decide on the measures to be taken.

In the absence of a unanimous decision of the Council on measures envisaged in the previous paragraph, the Commissariat, after consultation with the Governments concerned, shall make recommendations to them in order to ensure the placing and execution of orders within the time limits provided in program and at prices not abnormally high, taking into account the necessity of sharing as equitably as possible the burdens resulting therefrom among the economies of the member countries. The Council, by a two-thirds majority, may give the Commissariat general directives relative to preparing such recommendations.

A member State receiving such a recommendation may, within a ten-day period, notify the Council which shall act thereon.

#### ARTICLE 106

The Commissariat shall prepare a common program for scientific and technical research in military fields as well as the means of execution of this program. This program shall be submitted to the Council for approval under the same conditions as the common programs for armament, equipment, supply and infrastructure of the European Defense Forces.

The Commissariat shall ensure the execution of the common research program.

#### ARTICLE 107

1. The production of war materiel, the import and export of war materiel originating in or destined for third countries, measures concerning directly facilities for the production of war materiel, as well as the manufacture of experimental models and technical research on war materiel, are prohibited, except as authorized under the terms of Section 3 below.



2. The categories of war materiel covered by the prohibitions of Section 1 above are defined in Annex I attached to the present Article.

This Annex may be modified by the Council on the recommendation of the Commissariat or on the Council's own motion, by a two-thirds majority.

3. The Commissariat shall lay down by regulation the procedural rules for the application of the present Article and for the granting of licenses for the production, import and export, and for measures concerning directly facilities for the production of war materiel, as well as for the manufacture of experimental models and for research relating to war materiel.

In the application of this Article the Commissariat shall comply with rules of international law prohibiting the employment of certain instruments of war.

4. The following provisions shall be applicable to the granting of licenses by the Commissariat:

a. The Commissariat shall not grant licenses for items listed in Annex II\* attached to this Article in strategically exposed areas, except by unanimous decision of the Council.

b. The Commissariat shall not authorize construction of new propellant plants for military purposes except in territories defined by agreement among the governments of the member States. The Commissariat shall make such licenses subject to the appointment by it of a permanent inspector to ensure adherence by the establishments in question to the provisions of this Article. The same procedure shall be applicable to short range guided missiles used for anti-aircraft defense, as these are defined in paragraph 4d of Annex II.

c. As concerns exports, the Commissariat shall grant licenses if it considers that they are consistent with the needs, the internal security and the international commitment, if any, of the Community.

d. In the case of the manufacture of experimental models and technical research concerning war materiel, licenses shall be granted so long as the Commissariat does not feel that such manufacture or research might endanger the internal security of the Community, and unless other directives are given by the Council, as provided in Section 2 of Article 39.

e. The Commissariat shall grant general licenses for the production, import, and export of war materiel required by armed forces of member States not comprising part of the European Defense Forces, and to forces of associated States for whom member States assume defense responsibility. The Commissariat shall nevertheless ensure that the beneficiaries of such licenses do not make use of them beyond their needs.

f. The Commissariat shall grant general licenses concerning products listed in Annex I, when these are destined for civilian purposes. The Commissariat shall nevertheless ensure that the beneficiaries of such licenses do not employ them for other than such civilian purposes.

5. The regulations provided for in Section 3 above shall be prepared by the Commissariat and submitted for approval by the Council by a two-thirds majority. They may be amended, on the proposal of

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\*The English version of the French text of Annex II was not available for this print and is omitted.



the Commissariat or a member of the Council, by the Council by a two-thirds majority.

6. At the request of the Commissariat, the Court may decree the following penalties against persons or enterprises violating the provisions of this Article:

In the case of production, import and export of war materiel, penalties and fines may be imposed not exceeding 50 times the value of the products concerned. This maximum may be either doubled or raised up to the equivalent, in national currency, of one million U. S. Dollars in cases of recurrent or particularly serious offenses.

In the case of technical research, the manufacture of experimental models, and measures facilitating directly the production of war materiel, penalties not exceeding, in national currency, the equivalent of 100,000 U. S. Dollars may be imposed. This amount may be raised to the equivalent in national currency, of 1 million U. S. Dollars in cases of recurrent or particularly serious offenses.

\* \* \*

### Annex I to Article 107

#### 1. *War Weapons*

- a) Portable firearms, with the exception of hunting weapons and calibres less than 7 mm.
- b) Machine guns
- c) Anti-tank weapons
- d) Artillery pieces and mortars
- e) Anti-aircraft weapons (D. C. A.)
- f) Smoke-screen, gas and flame producing apparatuses.

#### 2. *Munitions and rockets of all types for military use*

- a) Munitions for war weapons defined in Para 1 above and grenades
- b) Self-propelled weapons
- c) Torpedoes of all types
- d) Mines of all types
- e) Bombs of all types

#### 3. *Powder and explosives for military use, including substances primarily used for propulsion by rocket*

Exempted will be products principally for civilian use, notably: Pyrotechnical compounds; priming explosives: a) fulminate of mercury, b) nitride of lead, c) trinitroresorcinate of lead, d) tetrazene; chlorated explosives, nitrated explosives with dinitrotoluene or with dinitronaphthaline; nitrocelluloses; black powder; hydrogen peroxide with a concentration less than 99%; hydrate of hydrogen with a concentration less than 30%.

#### 4. *Armored equipment*

- a) Tanks
- b) Armored vehicles
- c) Armored trains



5. Warships of all types
6. "Military" planes of all types
7. Atomic weapons
8. Biological weapons<sup>1</sup>
9. Chemical weapons<sup>1</sup>

(Definitions for items 7, 8, and 9 will be given in Annex II.)

10. Constituent parts which can be used only in the construction of one of the items enumerated in groups 1, 2, 4, 5, and 6 above.<sup>2</sup>

11. Machines which can be used only for the manufacture of one of the items enumerated in groups 1, 2, 4, 5, and 6 above.

\* \* \*

#### ARTICLE 107 BIS

The regulations provided for in Section 3 of Article 106 shall be submitted to the Council within three months after the entry into effect of the Treaty. In the interim, the Commissariat shall grant authorizations in appropriate cases.

#### ARTICLE 108

1. Without prejudice to the provisions of Article 114 below the Commissariat may, as concerns the war materials defined in the Annexes to Article 107, address itself directly to the enterprises in question for information necessary to the fulfillment of its mission; the interested governments shall be kept informed.

The Commissariat may cause its agents to proceed to necessary verifications.

2. At the request of the Commissariat, the Court, subject to the provisions of the Protocol concerning its Code, may levy against an enterprise which does not furnish information requested or which knowingly furnishes false information, fines not to exceed one percent of the plant's annual turnover and daily penalty payments not to exceed five percent of the average daily turnover per day of delay.

#### ARTICLE 109

In order to aid the Commissariat in the performance of the tasks provided for in Articles 101 and 102, a Consultative Committee shall be established. It shall be composed of at least 20 and, at the most, 34 members. It shall include, in particular, representatives of producers and of labor; the numbers of the producers' representatives and of the representatives of labor shall be equal.

The Committee shall include nationals of each of the member States.

The members of the Consultative Committee shall be appointed by the Council, by a two-thirds majority. They shall be designated in their personal capacities for a term of two years. No order or instruction from organizations which have nominated them shall be binding on them.

<sup>1</sup> The Commissariat may exempt from the requirement of authorizations chemical and biological substances the use of which is primarily civilian. If the Commissariat decides that it is unable to grant such exemptions, it shall limit the control which it exercises solely to the use of such substances.

<sup>2</sup> The production of models of, and the technical research concerning, the material defined in paragraphs 10 and 11 above are not subject to the appropriate provisions of Article 107.



The Consultative Committee shall designate from among its members its President and its executive bureau, for a period of one year. The Committee shall draw up its own internal regulations.

The compensation allowed members of the Consultative Committee shall be set by the Council on the proposal of the Commissariat.

#### ARTICLE 110

The Consultative Committee shall be consulted by the Commissariat concerning problems of an economic and social nature raised by the preparation or execution of the common armament, equipment, supply and infrastructure programs. The Commissariat shall submit to the Consultative Committee any information needed in the latter's deliberations.

The Consultative Committee shall be convened by its President upon the request of the Commissariat.

Minutes of the discussions of the Consultative Committee shall be transmitted to the Commissariat and the Council at the same time as are the Committee's formal opinions.

#### ARTICLE 111

In consultation with the governments of the member States, the Commissariat shall prepare plans for the mobilization of the economic resources of the member States.

### TITLE VI—GENERAL PROVISIONS

#### ARTICLE 112

The member States undertake to take all general or specific measures appropriate to ensure the carrying out of obligations imposed by decisions and recommendations of institutions of the Community; they undertake also to facilitate the accomplishment by the Community of its mission.

The member States undertake to refrain from acts incompatible with the provisions of the present Treaty.

#### ARTICLE 113

All the institutions and services of the Community and of the member States shall collaborate closely concerning questions of common interest.

They shall lend each other mutual aid in administrative and judicial matters in accordance with agreements to be made among them.

#### ARTICLE 114

1. The member States undertake to place at the disposal of the Commissariat all information necessary for the accomplishment of its Mission. The Commissariat may request the member States to cause necessary verifications to be made. Upon the request of the Commissariat, which shall be supported by a statement of reasons, its agents shall be permitted to participate in making these verifications.



The Council, by a two-thirds vote, may give general directives concerning the application of the preceding paragraph.

If a member State believes that the information requested from it by the Commissariat is not needed for the accomplishment of the latter's mission, it may, within ten days, request a ruling from the Court. The Court shall rule is a matter of urgency. While such a request is pending the information in question need not be made available.

2. The institutions of the Community, their staffs and their agents shall not divulge information which is in the nature of a professional or military secret.

Any violation of the provisions of the preceding paragraph may, if damage has resulted from it, be ground for a suit in the Court.

#### ARTICLE 115

Within the limits of its competence, agents of the Commissariat charged by it with supervisory missions shall enjoy, as against individuals or public or private enterprises on the territories of member States, to the extent necessary for the accomplishment of their mission, such rights and powers as are granted by the laws of such States to agents of comparable departments of the governments. Missions and the status of the agents charged with them shall be duly communicated to the State in question.

Officials of such State may, at the request of such State, or of the Commissariat, assist agents of the Commissariat in carrying out their mission.

#### ARTICLE 116

Under the terms of an annexed Protocol, the Community shall enjoy on the territories of the member States the privileges and immunities necessary to the accomplishment of its mission.

#### ARTICLE 117

If the Commissariat determines that a member State has failed to carry out an obligation imposed upon it by the present Treaty, it shall so inform that State and invite its comments; such comments shall be made within a period of one month.

If at the expiration of an additional one-month period there persists a difference of opinion between the Commissariat and the State concerned, either shall have recourse to the Court. The latter shall decide the case as a matter of urgency.

The Council shall be informed of the decision of the Court.

#### ARTICLE 118

The seat of the institutions of the Community shall be determined by agreement among the member States.

#### ARTICLE 119 .

Without prejudice to the provisions of Chapter V of the Military Protocol, the language or languages to be employed by the institutions



of the Community shall be determined by unanimous decision of the Council.

## ARTICLE 120

1. The present Treaty is applicable to the European territories of the member States.

2. By decision of the Commissariat taken with the unanimous concurrence of the Council,

a) elements of the European Defense Forces may, with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, be stationed in territories, other than those defined in Section 1 of this Article, which are included in the area defined in Article 6 of the North Atlantic Treaty;

b) schools, training centers and other establishments of the Community may be installed in territories, other than those defined in Section 1 of this Article, which are included in the area defined in Section 2a of this Article, as well as in Africa north of the Tropic of Cancer.

3. Elements of the European Defense Forces, as well as schools, training centers and other establishments of the Community, may be stationed in territories other than those defined in Sections 1 and 2 of this Article by virtue of a unanimous decision to this effect taken by the Council after parliamentary approval, if and as required by the constitutional rules of each member State. This decision of the Council shall be taken after consultation with the North Atlantic Council and with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization.

4. Member States are authorized to recruit for the needs of contingents furnished by them to the European Defense Forces in territories other than those defined in Section 1 of this Article which are subject to their jurisdiction or for which they assume international responsibility.

## ARTICLE 121

The member States undertake not to enter into any international agreement incompatible with the present Treaty.

## ARTICLE 122

The member States undertake not to permit any treaties, conventions or declarations existing among themselves with a view to settling differences concerning the interpretation or application of the present Treaty by means of a procedure other than that provided by the present Treaty to prevail over the present Treaty.

## ARTICLE 123

1. In case of serious and urgent necessity, the Council shall assume, or confer upon institutions of the Community or other appropriate organizations, temporary powers necessary to meet the situation, within the limits of the general mission of the Community and with view to ensuring the achievement of its objectives; this decision shall be taken by unanimous vote.



A serious and urgent necessity may result either from the situations provided for in Section 3, Article 2 of the present Treaty, in the Treaty between the member States and the UK of the same date or in the Protocol concerning Guarantees between the European Defense Community and the North Atlantic Treaty Organization, or from a declaration to that effect adopted by unanimous vote of the Council.

2. The provisional measures taken pursuant to Section 1 of this Article shall cease to be effective on the date on which the state of emergency is declared by the Council, by two-thirds vote, to be at an end.

The normally competent institutions shall, in the manner provided for in this Treaty, decide concerning the maintenance of conditions resulting from these measures.

3. The present article does not affect the placing in action of the European Defense Forces for the purpose of meeting an aggression.

#### ARTICLE 124

In any case not provided for in the present Treaty in which a decision or recommendation of the Commissariat appears necessary to ensure the proper functioning of the Community and the realization of its purposes within the limits of its general mission, such decision or recommendation may be taken with the unanimous concurrence of the Council.

If the Commissariat fails to take the initiative, the matter may be referred to the Council by one of the member States. The Council may by unanimous vote require the Commissariat to make such decision or recommendation. If the Commissariat fails to take action pursuant to such decision of the Council within the time limit set therein, the Council shall be empowered to take such measures itself by a simple majority.

#### ARTICLE 125

If unforeseen difficulties which are brought out by experience in the application of the present Treaty require an adaptation of the rules concerning the exercise by the Commissariat of the powers which are conferred upon it, appropriate modifications may be made in such powers by unanimous decision of the Council provided that such modifications do not bring into question the provisions of Article 2 or modify the relationship among the powers of the Commissariat and of the other institutions of the Community.

#### ARTICLE 126

The Government of each member State and the Commissariat may propose amendments to the present Treaty. Such proposals shall be submitted to the Council. If the Council, acting by a two-thirds majority, approves, a conference of representatives of the Governments of the member States shall be immediately convoked by the President of the Council, with a view to agreeing to any modifications to be made in the provisions of the Treaty.

Such amendments shall enter into force after having been ratified by all the member States in conformity with their respective constitutional processes.



## ARTICLE 127

As used in the present Treaty, the words “the present Treaty” shall mean the provisions of this Treaty and those of the Military Protocol, of the Protocol concerning Jurisdiction, of the Protocol concerning Military Criminal Law, of the Financial Protocol, of the Protocol concerning the Remuneration of Civil and Military Personnel and their Pension Rights, of the Protocol concerning the Grand Duchy of Luxembourg, of the Protocol concerning Relations between the European Defense Community and the North Atlantic Treaty Organization and of the Protocol concerning Guarantees between the European Defense Community and the North Atlantic Treaty Organization.

## ARTICLE 128

The present Treaty is concluded for a period of 50 years from the date of its entry into effect.

If, before the establishment of a European federation or confederation, the North Atlantic Treaty should cease to be in effect or there should be an essential modification in the membership of the North Atlantic Treaty Organization, the High Contracting Parties shall examine together the new situation which shall thus have arisen.

## ARTICLE 129

Any European State may request to accede to the present Treaty. The Council, after having obtained the opinion of the Commissariat, shall act by unanimous vote, and shall also fix the terms of accession by unanimous vote. Accession shall become effective on the day on which the instrument of accession is received by the Government acting as depository of the Treaty.

## ARTICLE 130

The present Treaty, drawn up in a single original, shall be deposited in the archives of the government of the French Republic, which shall transmit a certified true copy to each of the governments of the other signatory States.

As soon as it shall have assumed its functions, the Council shall establish authentic texts of the present Treaty in the languages other than that of the original. In the case of discrepancies, the text of the original shall govern.

## ARTICLE 131

The present Treaty shall be ratified and its provisions applied in accordance with the constitutional rules of each member State. The instruments of ratification shall be deposited in the archives of the Government of the French Republic, which shall notify the Governments of the other member States when the instruments have been so deposited.



## ARTICLE 132

The present Treaty shall enter into effect on the date of the deposit of the instrument of ratification of the last signatory nation to accomplish that formality.

In the event that all the instruments of ratification have not been deposited within a period of six months following the signature of the present Treaty, the governments of the States which have made such deposit shall consult among themselves on the measures to be taken.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have affixed their signatures at the end of the present Treaty and have thereto affixed their seals.

DONE at Paris the twenty-seventh day of May one thousand nine hundred fifty-two.

ADENAUER  
PAUL VAN ZEELAND  
SCHUMAN  
DE GASPERI  
BECH  
STIKKER

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MILITARY PROTOCOL

Desirous of assuring application of Articles 9 and 15 of the Treaty, the member States of the European Defense Community have agreed to the following:

*Chapter I—Basic Units*

## ARTICLE 1—LAND FORCES

1. The basic unit, which shall be of homogeneous nationality, is the "Groupement" in which the action of the various elements comprising the land forces shall be combined on an organizational level.

2. Three principal types of Groupements are defined hereinafter:

- a. Infantry Groupement
- b. Armored Groupement
- c. Mechanized Groupement

Their general structure and their total complement are shown in Tables 1 (A), 1 (B), and 1 (C) below.

3. The Groupements and Brigades of the "Mountain" type already in existence shall retain their present form. The other types of single-nationality Groupements which it will be necessary to form for operational requirements shall be defined by a decision of the Commissariat.

In the event that the complement of these latter Groupements exceeds that of the types defined above, the complement figure shall be subject to the unanimous approval of the Council.



TABLE 1 (A)

*General Structure and Total Complement of the Infantry Groupement Command Command*

1 Groupement General Staff and 1 Headquarters Company

*Arms*

- 1 Reconnaissance squadron
- 3 Infantry regiments of 3-battalion strength each
- 1 Tank battalion<sup>1</sup>
- 1 Groupement artillery motorized in 5 groups<sup>1</sup>
  - 3 "light" howitzer groups
  - 1 "medium" howitzer group
  - 1 anti-aircraft artillery group
- 1 motorized engineering battalion
- 1 Signal Company

*Services*

- 1 Equipment Company
- 1 Supply Company
- 1 Medical battalion
- Military police and traffic guides
- Personnel staff (Company-cadres)

*Total Complement of Infantry Group*

Maximum peacetime complement	13,000 <sup>2</sup>
Wartime complement	15,600

<sup>1</sup> "Battalion" or "Regiment": for all units of the armed forces and the Cavalry, the terminology adopted will take national traditions into account; in the case of the Artillery, "Group" corresponds to the U. S. term "Battalion."

<sup>2</sup> Not including cover units.

TABLE 1 (B)

*General Structure and Total Complement of Armored Groupement**Command*

- 1 Groupement General Staff and 1 Headquarters Company
- 3 Sub-Groupement General Staffs

*Arms*

- 1 Reconnaissance battalion
- 4 Tank battalions
- 4 Infantry battalions forming a corps (if possible, mechanized "tout-terrain". Otherwise, and at the minimum, 2 mechanized battalions and 2 battalions carried as "tout-terrain").
- 1 Groupement Artillery (self-propelled) in 5 groups:<sup>1</sup>
  - 3 "light" howitzer groups
  - 1 "medium" howitzer group
  - 1 anti-aircraft artillery group
- 1 Mechanized Engineering Battalion
- 1 Signal Company (reinforced)

*Services*

- 1 Equipment Battalion
- 1 Supply Battalion
- 1 Medical Battalion
- Military Police and traffic guides (reinforced)
- Personnel staff (Company-cadres)

*Total Complement of Armored Group*

Maximum peacetime complement	12,700 <sup>2</sup>
Wartime complement	14,600

<sup>1</sup> See Table 1 (A).

<sup>2</sup> Not including cover units.



TABLE 1 (C)

General Structure and Total Complement of Mechanized Groupement

Command

- 1 Groupement General Staff and 1 Headquarters Company
- 3 Sub-Groupement General Staffs

Arms

- 1 Reconnaissance battalion <sup>1</sup>
- 3 Tank battalions <sup>1</sup>
- 6 Infantry battalions forming a corps (carried as "tout-terrain")
- 1 Groupement Artillery, motorized in 5 groups (same type as Artillery of Infantry Groupement) <sup>1</sup>
- 1 Motorized Engineering Battalion
- 1 Signal Company (reinforced)

Services

- 1 Equipment Battalion
- 1 Supply Company
- 1 Medical battalion
- Military police and traffic guides
- Personnel staff (Company-cadres)

Total Complement of Mechanized Group

Maximum peacetime complement	12,700 <sup>2</sup>
Wartime complement	14,700

<sup>1</sup> See Table 1 (A).  
<sup>2</sup> Not including cover units.

ARTICLE 2—AIR FORCES

1. The European Air Forces shall comprise a single type of basic Unit of uniform structure. Only the personnel and equipment shall vary according to the speciality of the Unit.

The basic Unit shall be as mobile as possible.

2. Each Unit, commanded by a Chief assisted by a General Staff, shall include the following three Groups:

A combat Group composed in principle of three identical squadrons and constituting the operational element of the Unit;

A technical Group composed of a maintenance squadron and a supply squadron, the purpose of which is to ensure the upkeep, repair (second echelon) and supply requirements of the Unit;

A general purpose Group ("Groupe des moyens generaux") to serve the general housekeeping requirements of the Unit at an air base.

3. The personnel complement and the equipment are shown in the following table.

Table on Air Force Personnel Complement and Equipment of Basic Units

- 1. The average complement of the basic Unit shall be as follows :

Maximum peacetime complement	1,300 men <sup>1</sup>
Wartime complement	2,000 men
- 2. The equipment of the basic Units shall be as follows :

Tactical pursuit	} 75 planes (25 planes per squadron)
Interceptors	
All weather pursuit	26 planes (12 planes per squadron)
Reconnaissance	54 planes (18 planes per squadron)
Light bombers	} 48 planes (16 planes per squadron)
Transports	

<sup>1</sup> Barring special necessities justifying a modification of this complement.



## ARTICLE 3—NAVAL FORCES

The Naval Forces shall be organized in groupements of homogeneous nationality, broken down into subordinate elements (groups, flotillas, fleets, etc.) and corresponding to one operational sector or one tactical mission.

## ARTICLE 4

Insofar as the general lines of their organization and their personnel complement are concerned, the types of basic Units of the European Defense Forces may be modified only in accordance with the provisions of Article 44 of the Treaty.

The provisions included in the present Chapter in no way prejudice the details of the future organization, and necessary adjustments may be made by a decision of the Commissariat at the time of establishment of the rules of application.

*Chapter II—General Organization and Formation of the European Defense Forces*

## ARTICLE 5

The EDF shall be organized into :

- Central institutions
- Territorial military commands
- Troop commands

## ARTICLE 6

The *central institutions* of the Commissariat shall be established as soon as the Treaty becomes effective. They shall carry out the build-up operations progressively in such a way that these operations shall not entail any diminution in effectiveness as regards either the Forces assigned to the Community or those remaining under national authority.

In this connection, the central Headquarters shall, as of the date of entry into effect of the Treaty, assign to each of the member States a Deputy who shall have the responsibility of directing the build-up of the contingent furnished by that State, according to the instructions and under the supervision of the Commissariat. This Deputy shall be a citizen of the country in question and shall have at his disposal a detachment of the Central Headquarters which shall be integrated according to command, instruction and liaison requirements.

## ARTICLE 7

1. A European territorial military organization shall be constituted by this Deputy, through creation, where none exists, of a territorial military system and by adaptation where one exists.

This organization shall have European Territorial Military Regions as its basis and the boundaries of these Regions shall be fixed and modified by the Commissariat with the concurrence of the Council by unanimous vote.

The Deputy of the Central Headquarters shall have at his disposal the Commands of these Regions, together with the facilities of the



detachment from the Central Headquarters, to set up the contingents for which he is responsible.

2. The European territorial military organization thus constituted shall, at the same time that it contributes to formation of contingents, be responsible for fulfilling the needs of European and national forces. It shall operate, also, as needed, for the benefit of NATO forces. Finally, it shall cooperate with services the competence of which remains national.

This organization shall be integrated according to the type of troops that they serve.

While of European status, it is submitted to two authorities, that is, to the Commissariat and to the appropriate government departments. As concerns the latter, the Deputy of Central European Headquarters shall be subject to their orders in matters within their competence.

Internal police forces may use the services of the European Military Territorial Organization.

#### ARTICLE 8

The Member States shall, as of the date of entry into effect of the Treaty, and to the extent that they do not already have such organizations, establish the services and institutions necessary for the accomplishment of their obligations under the Treaty.

The Minister responsible for matters which remain national in each Member State or charged with European Defense Affairs shall have at his disposal the Deputy of the Central European Headquarters and the European Territorial Commands for the exercise of his functions.

#### ARTICLE 9

1. *European Troop Commands*, that is, *integrated* Commands shall be formed:

Some of them as soon as the Treaty becomes effective, to command formations already existing and prepare the integration of other formations;

Others within a very short period of time, so that they can, while they are being organized, perform functions of supervision in the preparation of units which will subsequently incorporate.

2. *Transfer of units* to Troop Commands shall take place when these Commands having been formed and being in condition to perform their functions, the elementary units have attained a degree of preparation permitting them to be grouped in Large Units.

In each case the Commissariat shall decide on the transfer.

#### ARTICLE 10

The period of time allotted for the formation of the forces at the end of which the mission of the Deputy from Central Headquarters ends shall be fixed by decision of the Commissariat. It shall not exceed eighteen months from the date of entry into effect of the Treaty except with the unanimous concurrence of the Council.

The final organization of the Territorial Commands to be then put into effect in the European Defense Community shall be determined, before the expiration of the period of time mentioned in the preceding



paragraph, by decision of the Commissariat taken with the concurrence of the Council, the latter being given by two-thirds majority vote.

### *Chapter III—Personnel*

#### ARTICLE 11

The Commissariat shall elaborate the texts relative to the recruiting and organization of personnel of the European Defense Force within the framework of the general principles defined below.

Until such time as these texts go into effect, the pertinent legislation and regulations of the member States shall remain in effect.

#### SECTION I—RECRUITMENT

##### ARTICLE 12—GENERAL CONSIDERATIONS

1. All male citizens of the member States shall be subject to military service unless physically, mentally or morally unfit, and except as provided in the Constitutions or laws of the member States.

2. Decisions on the length of service shall be taken by unanimous vote of the Council.

In all the member states, the period of active service shall be fixed at a minimum of eighteen months. This minimum can be changed by unanimous vote of the Council.

The same conditions as for active service shall apply for regulatory services in the reserves.

3. The operations for building up and supplying the Armed Forces shall comprise the following:

- the census and classification of citizens of military age;
- the call to active service;
- enlistment and re-enlistment of personnel serving on a long-term basis;
- administration of reserves.

These three categories of operations shall be divided between the national organizations and the Commissariat.

4. The European Defense Forces shall be recruited as follows:

- By total or partial conscription of age groups;
- By enlistments (on a long-term basis or by voluntary anticipation of conscription) and by re-enlistments.

5. In the event that the numbers of citizens fit for military service exceeds the requirements of the Armed Forces, the necessary reduction shall be made by means of exemptions based on social, economic and professional considerations appropriate in each member State, although such action shall not impair the military effectiveness of the contingents.

Citizens exempted from active service shall remain subject to the other military obligations of their age class.

##### ARTICLES 13—CALL TO ACTIVE DUTY

1. The census lists shall be drawn up by the competent services, on the basis of the principles previously laid down.



2. The persons whose names are on the census lists shall appear before a review board which shall determine their aptitude for service.

3. These persons shall be called to active duty in various numbers over a period of time depending upon requirements and on the basis of their dates of birth, in the year in which they reach the age specified for entry into military service.

Temporary deferments may be granted up to a certain age for social, economic and professional reasons appropriate in each member State as well as for residence abroad, provided the military effectiveness of the contingents is not impaired thereby.

#### ARTICLE 14—RECRUITMENT OF OFFICERS AND NON-COMMISSIONED OFFICERS

1. The detailed methods for the recruitment of Officers and Non-Commissioned Officers shall be drawn up by the Commissariat.

The general conditions to be fulfilled for acceding to each of these categories are given below:

2. *Active Officers* are recruited from among the following:

Candidates fulfilling the required conditions of aptitude who have completed the legal period of troop service.

Non-commissioned Officers;

Reserve officers admitted to active cadres.

3. *Reserve officers* are recruited from among the following:

Candidates having shown sufficient aptitude following the appropriate training courses either during the period of service or during periods in the reserves;

Active officers who have resigned or retired.

4. *Active non-commissioned officers* are recruited from among the candidates showing sufficient aptitude:

During the period of enlistment or reenlistment, in the case of volunteers;

During the period of required military service, in the case of conscripts.

They may become career non-commissioned officers.

5. *Reserve non-commissioned officers* are recruited from among the candidates showing sufficient aptitude:

During or at the end of their required military service, in the case of conscripts;

During the period of enlistment or reenlistment or at the end of this period, in the case of volunteers;

During periods in the reserves, in the case of personnel having been released from active duty.

#### SECTION II—DISCIPLINE

##### ARTICLE 15

As provided under the provisions of Article 78 of the Treaty, a single body of General Regulations on Discipline shall be drawn up, applicable to the entire European Defense Force. National regulations shall remain in effect until the common regulations are approved. These common regulations shall be drawn up as rapidly as possible and shall be applied simultaneously to all contingents.



## ARTICLE 16

1. Members of the European Defense Force shall conduct themselves in a manner befitting the high mission with which they are entrusted. They shall respect civil laws and regulations and local customs.

They shall abstain from any act tending to offend the religious convictions of others.

All appropriate measures shall be taken to enable them to practice their religion.

2. Members of the European Defense Force have the same obligations toward the Community and its command echelons as military personnel of national armies normally have toward their Government and their own command. The most important of these duties are:

- loyalty to the Community;
- obedience to the laws and regulations of this Community;
- obedience to the European military leaders, regardless of nationality.

## ARTICLE 17

1. Incorporation of units into the European Defense Force shall be marked by a solemn demonstration of allegiance to the Community in which the traditions of each contingent shall be taken into account.

2. The members of the European Defense Force shall render honor to the flags, standards, and banners of the European Defense Force and of the member states, as well as to the European emblem.

## ARTICLE 18

The subordinate shall obey his superiors for the good of the service to the extent connected with observance of the law, customs of war, the execution of military regulations; he may appeal any measures considered irregular or any punishment which he deems unjustified under the rules laid down in the General Regulations on Discipline, and subject to the provisions of the Military Code of Justice.

## ARTICLE 19

The superior must always set an example for his subordinates both in his respect for discipline and his observance of the regulations.

The superior should extend the benefit of his experience to his subordinates, should have their material and moral interests at heart, and should avoid any measures which might offend their dignity.

He shall be expected to leave to each subordinate the greatest possible initiative and shall not interfere in the exercise of command of subordinate authorities.

## ARTICLE 20

A standard regulation shall be drawn up relative to the nature of rewards and punishments, the definition of infractions, and the determination of the rights of each person in such matters.



## SECTION III—RANK AND ASSIGNMENT

## ARTICLE 21—GENERAL CONSIDERATIONS

1. The basic texts relative to rank and assignment shall cover the following in particular:

- lists of cadre quotas (“tableaux d’encadrement”),
- rules for advancement,
- rules assuring a career service to professionals,
- principles of administration and management of personnel.

The Commission shall prescribe the methods of applying the above texts.

2. The number of ranks is fixed as follows:

- 4 for enlisted men,
- 5 for non-commissioned officers,
- 3 for junior officers,
- 3 for senior officers,
- 4 for general officers.

## ARTICLE 22—PROVISIONS GUARANTEEING RANK AND ASSIGNMENT

1. Members of the European Defense Force may not lose their rank or assignment or be struck from Army rosters except for specified reasons.

2. Appropriate provisions shall be included in the General Regulations on Discipline and the Military Code of Justice.

These provisions shall be based on the following general considerations:

a) loss of rank may be decided only by judgment of a Tribunal or by way of disciplinary punishment under certain conditions;

b) temporary suspension from assignment as a disciplinary measure or for any other serious reason may occur only in strictly defined cases;

c) the striking of personnel from Army rosters is possible only in the following cases:

resignation, within the provisions of the regulations in effect;

attainment of the age limit or the end of the service period;

physical disability, professional incompetence, grave misdemeanor or habitual misconduct;

conviction by a legally recognized court.

d) In the case of officers and non-commissioned officers, measures affecting rank or assignment pursuant to a disciplinary measure may be taken only after the report of a Board of Inquiry.

## ARTICLE 23—OFFICERS

1. Advancement shall be governed by the basic texts drawn up by the Commissariat within the framework of the provisions of Article 31 of the Treaty.

Officers will compete among themselves for advancement within their own contingent, up to and including the rank of General of Division.



2. Appointments to the command of a basic unit; to the rank of general officer, with command over units of different nationality; and to certain higher position in the Commissariat as determined by the Council, shall be conferred by the Commissariat with unanimous concurrence of the Council.

3. All other appointments are conferred by the Commissariat, taking account of the recommendations of the commands concerned.

Decisions on appointments below the rank of colonel may be delegated to corps commanders.

4. The list of appointments to each rank shall be determined by the tables of organization.

5. The over-all distribution of appointments in integrated units shall be in conformity with the tables of organization for the member States.

#### ARTICLE 24—NON-COMMISSIONED OFFICERS AND MEN

*Advancement:* Advancement of non-commissioned officers and men shall take place within each contingent in conformity with the general instructions issued by the Commissariat.

*Assignment:* Similarly, the Commissariat shall specify in its instructions the general rules for assignment of non-commissioned officers.

#### ARTICLE 25—DETACHMENT OF PERSONNEL

Personnel of the European Defense Force may be detached individually from this Force for missions outside the Defense Community. For the duration of the period of detachment, the Community shall be relieved of responsibility for their upkeep, and shall no longer have direct authority over them, but shall continue to maintain their service records with those of their original organization according to rules to be determined.

### *Chapter IV—Principles Concerning Standardization of Doctrines and Methods; Schools*

#### ARTICLE 26—STANDARDIZATION OF DOCTRINES AND METHODS

1. In conformity with Article 73 of the Treaty, the training and the conditioning of the European Defense Force shall be carried out on the basis of a common doctrine and uniform methods, drawn up in cooperation with the appropriate N. A. T. O. organizations and according to its directives.

2. This doctrine and these methods will be the subject of common regulations applicable to all contingents comprising the European Defense Force.

#### ARTICLE 27—SCHOOLS

1. The following shall be created as soon as the Treaty goes into effect:

Courses for General Officers and General Staff Officers;  
Courses for Officers called to the following Commands:  
Land forces: Basic unit and Regiment  
Air forces: Equivalent units



Courses for School Commanders and their principal staff instructors;

Courses for liaison officers of at least bilingual ability;

Courses for interpreters;

Courses for training certain cadres and specialists essential to the European Defense Community as a whole (Signal, Radar, Air support, Air and Anti-Aircraft Defense, Amphibious Operations, etc.).

These courses shall be organized by the Commission and placed under its direct responsibility. They shall be on an inter-service basis whenever this may prove necessary.

2. As soon as possible and in accordance with the needs of the Community, all Schools in existence on the effective date of the Treaty shall become European, with the exception of those which are necessary for the formation and training of armed forces which remain national by virtue of the Treaty.

Schools to be created by the Community shall be European from the date of their establishment.

All such schools shall be subject to the following general rules:

development of the spirit of European cooperation;

inspection by the appropriate organizations of the Commissariat;

synchronized formation and training phases in order to achieve similar training results, with the programs being drawn up according to the directives issued by the Commissariat;

organization of joint instruction periods to be developed to the fullest extent possible;

intensive teaching of languages.

Advanced training schools shall be integrated.

Officer training schools and service schools shall also be integrated. They may, however, consist of sections of a single nationality to facilitate instruction.

On a transitional basis, and for as brief a period as possible, officer training schools and service schools shall operate under the jurisdiction and the responsibility of the Commissariat, the direction of such schools being integrated and the teaching staffs and students of a single nationality if found desirable. In this latter case, such training shall take place in the country of origin.

Schools for the formation of certain categories of non-commissioned officers and specialists shall be subject to the same regulations as the officer training schools and the service schools.

3. The organization of schools and teaching establishments in the European Naval Force shall be effected within the general framework of the principles defined above, taking into account the special characteristics of this Force.

4. As concerns countries with more than one official language, the application of the measures in the present Chapter shall be subject to the provisions of Article 74 of the Treaty.

### *Chapter V—Use of Languages*

#### ARTICLE 28

1. Every member of the European Defense Forces shall employ his national language, subject to the provisions of this chapter.



2. Measures shall be taken to promote, within the European Defense Community, the study of the various national languages of the member States, in accordance with rules to be determined when the curriculum of the European schools is established.

3. In the event that knowledge of an auxiliary language shall be rendered necessary by practical considerations, such auxiliary language shall be taught in the basic schools in a manner to be determined by the Commissariat with the unanimous concurrence of the Council.

#### ARTICLE 29

1. By "reference language" is meant the language which shall prevail in case of misunderstanding or difficulty.

The reference language shall be the language of the authority from which issue the orders, instructions, etc. For all training commands, the reference language shall be that of the command. French shall be the reference language of the Commissariat.

2. Communications made to a subordinate echelon shall be in the language of that echelon; in principle, such communications should also be made in the reference language.

3. Communications made to a higher echelon shall be in the language of the echelon in which the communications originated.

4. Communications between echelons not in the same chain of command shall be in the language of one or the other of them, as may prove most practical.

In case of difficulty, the common auxiliary language shall be used.

5. The auxiliary language shall be considered as an alternative language to be used obligatorily for all procedural communications (radio, codes, passwords, etc.) or in case of difficulties in use of the other languages.

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### FINANCIAL PROTOCOL

The High Contracting parties,

Desirous of completing and defining the procedures for applying the financial provisions of the Treaty instituting the European Defense Community,

Have agreed as follows:

#### TITLE I—PREPARATION OF THE COMMON BUDGET

##### ARTICLE 1

The Commissariat prepares the budget. For this purpose there will be a Finance Administration empowered to establish the estimate of receipts and to centralize the expenditures proposed by the responsible services and which can be modified with the agreement of the latter. This Administration shall, at the proper time, give notice of the procedures and the dates on which expenditure estimates must be submitted. These estimates must be supported by appropriate documentation.

The Financial Controller shall give his opinion on the draft budget.



## TITLE II—CONTENT OF THE COMMON BUDGET

## ARTICLE 2

The common Budget may include an ordinary section and an extraordinary section, the latter being characterized by either the extraordinary nature of the expenditure or the extraordinary nature of the receipt.

## ARTICLE 3

Expenditures entered in the common Budget shall be classified according to the principal services of the Community and according to the nature of the expenditure.

Within these classifications, expenditures shall be grouped in chapters and each chapter shall include only expenditures of the same nature. If necessary, chapters may be subdivided into articles.

## ARTICLE 4

The draft Budget must give all information needed to appraise the amount and the purpose of the expenditure. To the extent that it is not contrary to military secrecy, such information shall be given in budgetary documents which are made public.

## ARTICLE 5

The common Budget shall cover all of the receipts and expenditures of the Community without there being any offsetting of a receipt by an expenditure or vice versa. The Budget shall not show attribution of a receipt to an expenditure, with the possible exception of the extraordinary section.

## ARTICLE 6

For the execution of the common armament, equipment, supply and infrastructure programs extending over several years, the budget carries the authorizations and estimates necessary for the whole program in the form of program authorizations as well as in the form of payment authorizations for the cash expenditures of this program within the year in question.

## ARTICLE 7

An annexed document is included in the Budget which shall indicate the countries in which in principle the different expenditures are to be made.

## ARTICLE 8

In application of Article 89 of the Treaty, the Commissariat may, with the agreement of the Financial Controller, shift budgetary credits to take care of expenditures less than 10,000 accounting units and which do not entail commitments on the part of the Community covering several fiscal years.



## ARTICLE 9

There can be inscribed in the receipts and expenditures of the Budget sums which are not destined for the payment of the expenditures of the Community itself. These sums, which only transit the common budget, are recorded in a special section.

The Community, which does not exercise any control whatsoever over the use of these sums and which does not have the obligation for their financing, is discharged of all responsibility involved in the transit by remitting the sums to the recipients.

## ARTICLE 9 BIS

The Council shall conduct the negotiations concerning support costs which are provided for in the Treaty signed at Bonn on 26 May 1952. The Council may, by unanimous vote, delegate this function to the Commissariat. Decisions to be taken as a result of these negotiations shall be taken by unanimous vote.

## ARTICLE 10

The payment credits which are not utilized at the end of the year shall be annulled unless there was provision for the possibility of a carryover at the time the Budget was voted.

If there is a deficit at the close of the fiscal year, a budgetary credit shall of necessity be provided, either in the current Budget or in exceptional cases in the budget following the current budget, in order to cover such a deficit.

If there is a surplus, it shall be paid into a reserve fund. The total of this reserve fund shall not exceed  $\frac{1}{10}$  of the total of the highest budget during the last five years. Use of the assets of the reserve fund shall be decided within the framework of the Budget.

## TITLE III—EXECUTION OF THE COMMON BUDGET

## ARTICLE 11

The Budget shall be executed in accordance with the principle of the separation of the functions of authorizing payments and disbursement. Appropriations shall be administered and payment orders issued by officials attached to the various services of the Community. Actual payment of expenditures and receipt of money shall be handled by accountants who receive their instructions directly from the Finance Administration and who are responsible for their administration.

## ARTICLE 12

The President of the Commissariat shall be the principal agent authorizing payments for the Budget. He may, on the advice of the Finance Administration, delegate his powers to other members of the Commissariat and to the various service chiefs of the central administration or of the lower services. These deputies can administer funds only within the limits of the powers entrusted to them. The services administering funds shall periodically notify the Finance Administration of the situation of their commitments.



## ARTICLE 13

Aside from the limits set for their handling of funds, the administrators can authorize expenditures only within the limits of the monthly authorizations which they are granted by the Finance Administration. These authorizations shall be determined on the basis of on the one hand requirements, and on the other hand of cash availabilities. The administrators may be held personally responsible for any excess of authorizations arising from their management.

## ARTICLE 14

The sole fact that a receipt or an expenditure has been entered in the Budget shall not create rights or obligations vis-a-vis third parties. Any debt or claim can result only from a decision of the proper administrative authority.

## ARTICLE 15

The Council shall unanimously approve every decision of the Commissariat which entails the acknowledgment of a debt by the Community or which limits the free disposal of the assets of the Community.

## ARTICLE 16

The recovery of the claims of the Community shall be handled by the Finance Administration. The Commissariat is empowered, in case of necessity, to grant an extension (except in the special case of contributions). It may, with the consent of the Financial Controller, for an amount limited to 5,000 accounting units grant remission of debts; in case of amounts over 5,000 accounting units a Council decision is necessary.

## ARTICLE 17

All purchases, sales or exchange of property shall be covered by a special regulation of the Commissariat.

## ARTICLE 18

The Commissariat is empowered, in the name of the Community, to place all contracts covering expenditures provided for in the Budget, in conformity with the methods set forth in this Budget. The procedures for letting contracts will be prescribed in a special regulation of the Commissariat. The contracts let within the Community shall normally be payable in the currency of the member State concerned.

The Commissariat shall also be empowered to place contracts covering expenditures not provided for in the Budget, on condition that they amount to less than 10,000 accounting units and that it does not increase the total volume of the Budget. It shall give an accounting at the next meeting of the Council. If the contract exceeds 10,000 accounting units a decision of the Council, by a two-thirds majority, shall be required.



## ARTICLE 19

All payments shall presuppose the presentation of documents in proof of the service performed. It shall be the responsibility of the Finance Administration, in agreement with the accounting organizations, to define the nature of such documentary evidence.

## ARTICLE 20

In the cases and within the limits authorized by the Finance Administration, funds may be placed at the disposal of certain of the services which shall have the responsibility of subsequently justifying the use of these funds. The renewal of these advances shall be subordinated to the justification of the use of previous advances.

## TITLE IV—CURRENT CONTROLS OF THE EXECUTION OF THE COMMON BUDGET

## ARTICLE 21

Current controls on the execution of the common budget, aside from the powers of the Financial Controller himself, shall be carried out by the services of the Commissariat and the other institutions of the Community.

## ARTICLE 22

The Financial Controller shall have a dual mission: *He shall give opinions.* In this connection, all budgetary documents, all draft statutes, and armament equipment, supply and infrastructure plans to be covered by budgetary expenditures shall be submitted to him for his opinion.

*He shall check on the regularity of expenditures.* In this connection, all expenditure commitments as well as payment orders in the measure necessary to the effectiveness of his control shall first be submitted to him for his signature. Disbursing agents shall refuse to honor orders to pay which have not been submitted for his signature.

The Financial Controller shall have the right to ask the services for any explanation which he may consider desirable in the exercise of his mission. He may check on documents and make spot checks. He shall be informed by the Finance Administration of any situation which concerns the administration of the Budget as well as the Treasury and in particular the monthly allocation of funds.

The Financial Controller shall manage his own services so as to collaborate as closely as possible with the functioning of the services of the Community and so as not to entail a delay in their operations.

## ARTICLE 23

The head of each service or section, depending on the requirements, shall see that funds are administered in accordance with the methods foreseen by the budget and order the most economical conditions with the assistance of an administrative and financial section for which



the necessary operating civil or military regulations shall be established in agreement with the Finance Administration.

He shall see to the enforcement of financial directives and specifically the preparation and routing of any provisional statements or reports which may be considered necessary. Whenever it shall appear desirable the head of the administrative and financial section may be delegated the authority to authorize payments.

## TITLE V—TREASURY

### ARTICLE 24

The Community shall try to avoid any sizable transfer of cash by carrying out its operations through checking accounts. It shall open accounts in national central banks and shall also make use of the postal check services in existence on the territory of the member States. Under exceptional circumstances, it may enlist the assistance of private banking institutions.

### ARTICLE 25

The Community shall inform each State of the contribution for which it is liable. Payment shall be made in national currency. The account of the Community shall be credited on the due date. In the case of delay in payment, the rate of exchange to be applied in converting into national currency the common currencies in which the budget is established shall be the rate in force on the day when the account of the Community is credited and not the due date. In cases where contributions are voluntarily paid before the due date, the rate of exchange to be applied shall be that of the due date, the anticipated payment having only the character of a non-legal payment on account.

### ARTICLE 26

Any delay beyond three days in the payment of a contribution shall entail payment of 10 percent interest, counting from the due date. Moreover, the delinquent State shall be required to assume the additional expenditures which its delay in payment has caused the Community, particularly the interest on funds to which the Community should have had recourse.

### ARTICLE 27

In case of necessity, the Community shall require the States to grant it an advance equal at the most to the amount of the following monthly contribution. The State making the loan shall receive interest which shall not be more than that State pays its own creditors for operations of this nature.

### ARTICLE 28

The Community shall avoid all financial operations not justified by absolute necessity. It shall not perform any arbitrage in the placement of its assets. Such placements are made in short-term Treasury



bills of the national treasuries. To the extent that the Community may wish to make deposits in private banks, it shall reach an agreement with the competent monetary authorities of the State in question on the maximum amount of these deposits. The Community shall not place money with a non-member State nor engage in placements with member States which necessitate arbitrage of exchange except with the unanimous consent of the Council.

## TITLE VI—TRANSFERS AND ARBITRAGE

### ARTICLE 29

In executing the common Budget, the Commissariat shall use for payments in the monetary zone of a member State at least 85 percent of the contribution paid by that State. At the request of the State in question or of the Commissariat, this percentage may be reduced. If agreement cannot be reached between the Commissariat and the State in question as to this reduction, the question, at the request of one or the other of the parties, shall be brought before the Council of Ministers which shall decide by unanimous vote.

### ARTICLE 30

The Commissariat, in the execution of the common Budget, shall limit the amount of payments in the monetary zone of a member State to a sum equal at the most to 115 percent of the contribution paid by that State. At the request of the State in question or of the Commissariat, the amount of expenditures in national currency may be raised to more than 115 percent of the contribution of that State. If agreement cannot be reached between the Commissariat and the State in question as to this increase, the question, at the request of one or the other of the parties, shall be brought before the Council which shall decide by unanimous vote.

The Community shall procure the sums in national currency which are in excess of the contribution of the State in question either through arbitrage of the currency of the member State or arbitrage of the currency of non-member States in conformity with Articles 31 and 32 below.

### ARTICLE 31

Within the limit of sums which, under the terms of Article 29 above, may be utilized outside of the monetary zone of a member State, the Commissariat may freely engage in arbitrage between the currency of member States and that of non-member States which are linked by a multilateral payments system. Within the limits provided above, and contingent on Article 32 below, the Commissariat may, in agreement with the Governments in question, carry out arbitrage between the currency of member States and the currency of third countries which do not participate in this multilateral payments system. If agreement cannot be reached, the question shall be brought before the Council of Ministers either by the Commissariat or by a member State and the Council shall decide by unanimous vote.



## ARTICLE 32

Any arbitrage involving either assignment to the Community by a member State of U. S. dollars or freely-convertible currency against delivery of currency of a member State, or acquisition by the Community of currency of a member State against delivery of U. S. dollars or freely-convertible currency, shall be subject to agreement of the Council of Ministers by unanimous vote.

## ARTICLE 33

Transfers among member States necessary to the execution of the payments of the Community shall be considered as current payments.

## ARTICLE 34

In the preparation and execution of the Budget, the Commissariat shall limit commitments in currency of a member State or currency of a non-member State to the available funds resulting from the application of the preceding articles.

It shall make allowance for the indirect charges in foreign exchange arising for a member State as a result of the activities of the Community within its territory.

## ARTICLE 35

In order to avoid disturbances in the balance of payments of member States, the Commissariat shall make a careful choice of arbitrated currencies in the light of the economic and financial situation of the participating countries. It shall take the necessary steps to spread out the necessary transfers over the year in question.

## ARTICLE 36

In cases where the transfers and arbitrages could not continue to be carried out through the European Payments Union the provisions of the present Protocol relative to these transfers and arbitrages shall be reexamined by the Council which shall unanimously decide on the new provisions to be adopted.

## TITLE VII—FOREIGN AID

## ARTICLE 37

All division of foreign aid by way of exchanging freely convertible currencies against the local currency of the member States which is contained in an aid agreement foreseen in Article 98 of the Treaty shall be subject to a special approval of the Council by a unanimous vote in application of Article 32 above.

## ARTICLE 38

Foreign financial aid is considered as a receipt separate from the contributions of the member States and is not subject to the provisions of Articles 29, 30, 34 and 35 above.



## TITLE VIII—BOOKKEEPING

## ARTICLE 39

The Finance Administration shall, in conformity with the provisions of the financial regulation and in agreement with the control authorities, decide on the accounting regulations which will make it possible to record all of the operations of the Community, to follow the execution of the Budget, and to prepare the rendering and verification of the accounts of administration.

## TITLE IX—GENERAL PROVISIONS

## ARTICLE 40

The Council by unanimous vote shall approve a Financial regulation which shall embody, complete and define the provisions of the present Protocol. Eventually this regulation will be prepared by the Commissariat.

## ARTICLE 41

The provisions of the present Protocol which complete and define the application of the articles of the Treaty can be amended by a unanimous vote of the Council.

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PROTOCOL RELATIVE TO THE GRAND DUCHY OF LUXEMBOURG:

The High Contracting Parties,

Taking into account the fact that it is not possible for the Grand Duchy of Luxembourg, because of its demographic situation, to place a basic unit of homogeneous nationality at the disposal of the Community,

Agree that the volume of Luxembourg military forces, their organization, and the arrangements for their eventual integration and for their use will be established by an agreement to be concluded between the Community and the Grand Duchy, with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization.

This agreement shall also fix the length of active service in the Luxembourg forces, taking account of the conditions of their use and of all other factors specially relating to the demographic and industrial structure of the Grand Duchy.

To the extent necessary to establish, and give effect to, the provisions of this agreement, the latter shall take effect notwithstanding contrary provisions of the Treaty.

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PROTOCOL CONCERNING RELATIONS BETWEEN THE EUROPEAN DEFENSE COMMUNITY AND THE NORTH ATLANTIC TREATY ORGANIZATION

The member States of the European Defense Community,

Desirous that relations between the North Atlantic Treaty Organization and the European Defense Community maintain the



greatest flexibility and avoid to the greatest extent possible the overlapping of responsibilities and functions,

Agree as follows:

1. Mutual consultations shall take place between the North Atlantic Council and the Council of the European Defense Community on questions concerning the common objectives of the two organizations, and the two Councils shall hold joint meetings whenever one or the other deems it desirable.

Whenever one of the parties to the North Atlantic Treaty or one of the parties to the Treaty establishing the European Defense Community shall consider that the territorial integrity, the political independence or the security of one of them is threatened, or that the existence or integrity of the North Atlantic Treaty Organization or of the European Defense Community is threatened, a joint meeting shall be held upon the request of such party in order to study measures to be taken to deal with the situation.

2. With a view to ensuring close coordination on the technical level, each Organization shall communicate to the other appropriate information, and a permanent contact shall be established between the staffs of the European Defense Community Commissariat and of the civilian agencies of the North Atlantic Treaty Organization.

3. As soon as the European Defense Forces shall have been placed under the command of a Commander responsible to the North Atlantic Treaty Organization, members of the European Defense Forces shall become members of such Commander's Headquarters and of appropriate subordinate Headquarters. Commanders responsible to the North Atlantic Treaty Organization shall ensure all necessary liaison between the European Defense Forces and the other military agencies of the North Atlantic Treaty Organization.

4. The Council of the European Defense Community and the North Atlantic Council may by common agreement adjust the foregoing arrangements governing relationships.

5. The present protocol shall enter into effect at the same time as the Treaty establishing the European Defense Community, of which it shall form an integral part.

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### SPECIAL PROTOCOL

The Governments of the signatory States of the Treaty establishing the European Defense Community, signed this day, agree to consult together with a view to reaching an agreement which shall form the basis for the decision of the Council of Ministers of the Community provided for in Article 12, paragraph 2 of the Military Protocol annexed to the said Treaty.

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### SPECIAL PROTOCOL

The Governments of the signatory States of the Treaty establishing the European Defense Community, signed this day, agree to take all appropriate measures to facilitate the adherence of the Community as such to international Conventions relating to the laws of war.



## TREATY BETWEEN THE UNITED KINGDOM AND THE MEMBER STATES OF THE EUROPEAN DEFENSE COM- MUNITY

The President of the Federal Republic of Germany, His Majesty the King of the Belgians, the President of the French Republic, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Low Countries, Her Majesty the Queen of Great Britain, Northern Ireland and the British Territories beyond the Seas,

Desirous, in the interests of Western European defense, to extend to the relations between the United Kingdom and the member States of the European Defense Community, established by the Treaty signed at Paris on 27 May 1952, the guarantees of assistance against aggression, provided in Article IV of the Treaty signed at Brussels on March 17, 1948,  
have designated as plenipotentiaries -----

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who, having exchanged their full powers and found them in good and due form, have agreed as follows:

### ARTICLE I

If, at any time while the United Kingdom is a party to the North Atlantic Treaty, any other Party to the present Treaty which shall at that moment be a member of the European Defense Community, or the European Defense Forces, should be the object of an armed attack in Europe, the United Kingdom shall, in accordance with Article 51 of the United Nations Charter, afford the party or the defense forces so attacked, all the military and other aid and assistance in its power.

### ARTICLE II

As long as Article I of the present Treaty remains in effect, if the United Kingdom or its armed forces should be the object of an armed attack in Europe, the other Parties to the present Treaty which at the time shall be members of the European Defense Community, and the European Defense Forces, shall afford the United Kingdom and its forces all the military and other aid and assistance in their power.

### ARTICLE III

The present Treaty shall be ratified and its provisions executed in accordance with the constitutional rules of each contributing State. The instruments of ratification shall be deposited with the Government of the United Kingdom which shall inform the Governments of the other signatory States of each deposit. The Treaty shall become effective as soon as all of the signatory States shall have deposited their instruments of ratification and the Council of the European Defense Community shall have notified the Government of the United Kingdom that the Treaty establishing the European Defense Community has entered into effect.



## ARTICLE IV

The present Treaty, both the English and French texts of which shall be official texts, shall be deposited in the archives of the Government of the United Kingdom, which shall transmit a certified true copy to the Government of each of the other signatory States.

Signed at Paris on 27 May 1952.

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ADDITIONAL PROTOCOL ANNEXED TO THE TREATY ESTABLISHING THE EUROPEAN DEFENSE COMMUNITY, CONCERNING GUARANTIES OF ASSISTANCE FROM THE MEMBER STATES OF THE COMMUNITY TO THE STATES PARTIES TO THE NORTH ATLANTIC TREATY.

The member States of the European Defense Community,

Convinced that the creation of the European Defense Community, established by the Treaty signed in Paris on May 27, 1952, will strengthen the North Atlantic Community and the integrated defense of the North Atlantic area, and will promote a closer association of the countries of Western Europe,

Agree as follows:

## ARTICLE I.

Any armed attack

(i) on the territory of one or more of the Parties to the North Atlantic Treaty in the area defined in Article 6 (i) of the said Treaty, or (ii) on the land, naval or air forces of any of the Parties to the North Atlantic Treaty when in the area described in Article 6 (ii) of that Treaty, shall be considered an armed attack against all the member States of the European Defense Community and against the European Defense Forces.

In the event of such an armed attack, the member States of the European Defense Community, in respect of themselves and of the European Defense Forces, shall have the same obligations towards the Parties to the North Atlantic Treaty as those Parties undertake towards the members of the European Defense Community and the European Defense Forces, in virtue of the Protocol between the parties to the North Atlantic Treaty referred to in Article 2 below.

The expression, "States Parties to the North Atlantic Treaty" shall mean parties to the said Treaty at the time of entry into effect of the present Protocol.

## ARTICLE II.

The present Protocol shall enter into effect at the same time as the Protocol between the States parties to the North Atlantic Treaty, which extends reciprocal guarantees to the member States of the European Defense Community and to the European Defense Forces.



## ARTICLE III.

The present Protocol shall remain in effect for so long as the Treaty signed at Paris on May 27, 1952, establishing the European Defense Community, and the North Atlantic Treaty, supplemented by the Protocol referred to in Article II above, remain in effect.

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## COMMON DECLARATION BY THE FOREIGN MINISTERS

The governments represented at the Conference of Foreign Ministers in Paris,

Aware of the essential importance of Article 5 of the Treaty establishing the European Defense Community,

In view of Article 128 (new numbering) of the said Treaty, providing that such Treaty is concluded for a period of 50 years following the date of its entry into effect,

Express the wish that the provisions concerning the duration of the North Atlantic Treaty be adopted to those of the said Article 128.

Consider it desirable that the necessary initiative to this end be taken by the States parties to the North Atlantic Treaty which are participating in this Conference.

These governments agree to take such initiative.

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CONDITIONS OF REMUNERATION AND PENSION RIGHTS  
OF THE CIVIL AND MILITARY PERSONNEL EMPLOYED  
BY THE COMMUNITY

The High Contracting Parties,

Desirous of setting forth the conditions of remuneration and pension rights of the civil and military personnel employed by the Community,  
have agreed as follows:

ARTICLE (1) The military personnel of the European Defense Community, hereafter called the Community, are subject to a single pay scale based on a common statute carrying identical length of service provisions and a uniform hierarchy scale without prejudice to the application of national fiscal, family and social legislation.

ART. (2) The pay allotted to the military personnel of the Community shall not have the exclusive character of remuneration for services rendered. It shall be designed also to assure to the recipients a standard of living compatible with their functions by means of a series of allowances in kind and in cash which shall be adapted to the particular nature of military functions.

ART. (3) The constituent elements of the pay system shall be the following:

a basic salary with an increase for certain ranks; this basic salary is uniform for a given rank and a given length of service whatever the nationality of origin;

if necessary, a variable residential or quarters allowance designed to adapt the basic salary to the economic conditions pre-



vailing in each of the member States where the military personnel of the Community shall exercise their functions;

a separation indemnity for military personnel exercising their functions in a State other than their State of origin.

ART. (4) In addition, the military personnel of the Community shall receive personal equipment according to special dispositions for each rank; food shall be provided for all draftees and in certain circumstances for other personnel. Medical care and pharmaceutical assistance, indemnities for special obligations, representation allowances, and certain transportation facilities shall be provided as well.

ART. (5) The Community shall endeavor to provide lodging for its military personnel in return for a deduction from the basic salary.

The military personnel on official duty outside their State of origin who do not receive lodging from the Community shall receive a complimentary separation indemnity.

In the regions where rents are exceptionally high, military personnel shall receive a forfeitary allocation designed to cover this supplementary expenditure.

ART. (6) The fundamental principles defined above as well as the procedures for their application shall be incorporated into a regulation which shall be prepared by the Commissariat and approved by a unanimous vote of the Council in the month following the entry into force of the Treaty.

This regulation may be modified at a later date by the same procedure.

ART. (7) If the application of the principles defined above shall cause differences in the pecuniary situation of the military personnel of certain contingents arising from their services outside their State of origin, the appropriate national authority of which such personnel are the citizens can take, during a transitional period, all dispositions necessary to remedy this possible prejudice.

If the Council by unanimous vote shall decide that this additional remuneration compromises contributions to the common budget, the State concerned shall so handle such additional remuneration as to ensure that the interests of the Community are not prejudiced.

ART. (8) The Commissariat will prepare the statute and the provisions concerning the remuneration of the civil personnel of the Community which shall be approved by a unanimous vote of the Council. The labor legislation in force either in the State of residence or in the State of origin of the interested persons is not necessarily applicable.

ART. (9) A regulation of the European Defense Community concerning pensions and seeking the application of the principle of uniformity of rights shall be established by the Commissariat with the unanimous concurrence of the Council.

Until the entry into effect of such regulation, the personnel of the Community shall continue to be governed by the legislation of their states of origin. Service with the Community shall be computed together with service rendered to such States.

The case of States which do not have legislation on pensions shall be settled by the Council in agreement with the government concerned.



## AGREEMENT PROVIDED FOR IN ARTICLE 107 (PARAGRAPH 4-B)

The territory provided for in paragraph 4b of Article 107 of the Treaty is the territory situated to the west of the red line inscribed on the map annexed hereto.

This line follows the German-Dutch frontier up to the Rhine, the course of the Rhine to Cologne, passes to the east of Troisdorf, rejoins the Rhine at Bonn, follows the Rhine until Mainz, passes to the east of Darmstadt, rejoins the Necker at Heidelberg, follows the Necker until Esslingen, passes through Ulm, and rejoins the eastern extremity of the lake of Constance.

Signed at Paris, May 27, 1952.

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## PROTOCOL CONCERNING THE INTERIM COMMITTEE

The delegations which participated in drawing up the Treaty shall continue to meet as an Interim Committee during the period between the date of signature of the Treaty and the date when the institutions of the European Defense Community begin to function.

Within the Interim Committee they shall consider problems which concern the Community and the measures which the signatory Governments might be required to take before said institutions begin to function.

The Interim Committee shall, on the basis of the Treaty and the annexed Protocols and Conventions, draft the texts which are to be put into force at the same time as the Treaty in order to make it possible for the institutions of the Community to begin to function as soon as the Treaty is ratified.

In addition, it shall collect all of the information needed to facilitate performance by the Commissariat of the most urgent tasks for which it is responsible.

The Interim Committee shall be able to appoint *ad hoc* working groups and on a temporary basis to call on the experts necessary to carry out their mandate.

The work of the Interim Committee may consist only of preparatory studies and plans which shall not commit the Governments and shall not entail any measures of execution.



## JURISDICTIONAL PROTOCOL

## TITLE I—REPARATION OF DAMAGES

*Chapter I—Responsibility*

## ARTICLE 1

The Community shall make reparation for the damage caused by the dereliction of its services.

## ARTICLE 2

1. The Community, even when not at fault, shall be responsible for damage caused within the buildings and installations under its charge, without prejudice to the possible responsibility of the owner of such property, who remains liable in conformity with national law.

In this case, the responsibility of the Community may be evaded or lessened only to the extent that such damage is proved to be the fault of the victim or of a third party or is the result of an act of God.

2. The Community shall be responsible under the same conditions with reference to any of its activities which especially endanger third parties.

3. Until such time as there is established common legislation on civil responsibility as regards damage caused to third parties in matters of transportation, the regulations set forth above shall be applied by the competent organizations of the Community, in such a way as to achieve the utmost harmony among the principles of the national legislation of the member States, to the extent that this is in keeping with respect of the above regulations.

## ARTICLE 3

When the operation of the services of the Community or the buildings and installations under its charge subject third parties to an exceptionally serious risk, the responsibility of the Community may be evaded or lessened only to the extent that it is proved that the damage is due to the fault of the victim.

## ARTICLE 4

The Community shall be responsible for that damage caused to roads or public installations, as a result of utilization thereof by its Forces or its Services which exceeds appreciably either by its nature or by its extent the damage resulting from ordinary utilization of the above facilities.

## ARTICLE 5

Unless otherwise stipulated, the Community shall make reparation for damage caused to property placed at its disposal, by virtue of an agreement with one of the member States of the Community or with an agency of these States.

## ARTICLE 6

The Community shall make reparation for the damages caused by the fault of its agents in the exercise of their functions.



Agents shall not be responsible toward third parties as a result of such acts.

#### ARTICLE 7

Agents of the Community shall be personally responsible toward third parties, according to the applicable local law and before the competent jurisdiction under common law, for damage for which they are at fault and which is committed outside the exercise of their functions.

In case of dispute on the point of whether the act causing damage was performed during the exercise of functions, the case shall be brought before the territorially competent court, which shall give final decision on this point, unless such case is covered under the conditions provided in Article 13 below.

Notwithstanding the provisions of paragraph 1 of the present Article, an indemnity may be granted voluntarily by the Community to the injured party, taking into account all the circumstances of the case, particularly the conduct and behavior of the victim. The decisions taken by virtue of the present paragraph may not be appealed.

#### ARTICLE 8

When a particularly serious act committed by one of its agents has caused the Community direct damage or when by such act the responsibility of the Community is involved in accordance with the provisions of the present Chapter, such agent may be condemned to make reparation for all or part of the damage caused the Community by his act.

#### ARTICLE 9

Each member State shall refrain from demanding an indemnity of the Community in the event that a member of its armed forces forming part of the Community suffers bodily injury in line of his duty.

### *Chapter II—Procedure*

#### ARTICLE 10

1. Without prejudice to the provisions of Article 16 below, claims for indemnity shall be submitted to local Indemnity Commissions, of which the number, the territorial jurisdiction and the procedures shall be fixed by regulations drawn up by the Commissariat.

2. These Commissions shall be composed of:

a President appointed by the Commissariat or by the authority to which the latter shall have delegated its powers for this purpose, from among persons having all the necessary qualifications for legal competence in such matters and possessing the nationality of the receiving State;

a member appointed by the Commissariat from among the citizens of member States other than those of the receiving State;

a member of the European Forces appointed by the locally competent European military authority.



3. The Commission shall examine the claims for indemnity and proceed with any investigations, verifications, and appraisals which may seem necessary. Within the limits of the powers delegated to him by the general instructions of the Commissariat, the President shall strive to promote an amicable settlement with the claimant.

If an amicable settlement is not reached, the Commission shall determine the indemnity due the claimant. The decision of the Commission shall be taken by majority vote. Reasons for the decision shall be given.

The Commission may decide that an advance on account of the indemnity shall be paid to the claimant, notwithstanding any recourse to appeal.

#### ARTICLE 11

The decision of the Commission may be appealed by the claimant within two months after notification of such decision or by the Commissariat as soon as such decision has been pronounced. Appeal on a point of law may be filed within the period specified by the provisions governing procedure before the Court.

Without prejudice to the provisional measures provided for in paragraph 3 of Article 10 above, the decisions of the Commission shall become final prior to the expiration of the appeal period only if the claimant and the Commissariat forego the exercise of their right of appeal. Appeal shall be a stay of judgment.

#### ARTICLE 12

Appeal shall be filed before a regional section of the Court composed of one of the judges of this jurisdiction, who shall preside, assisted by four magistrates of the Community. The latter shall be of the nationality of the receiving State. In certain categories of cases, the regional court may consist of only three judges.

Decisions of the Council, taken at the request of the President of the Court and after consultation with the Commissariat, shall fix the number and the territorial jurisdiction of the sections as well as the conditions under which these sections may eventually be called upon to sit in several localities under their jurisdiction.

The regional sections shall examine the case, complete the judicial inquiry if necessary, and make final judgment.

#### ARTICLE 13

When a case involves questions of principle, it may be referred to the Court either by the [regional] or by its President after consultation with the assessors whenever the amount of the claim exceeds three thousand United States dollars. When the amount of the claim does not exceed three thousand United States dollars, the Commissariat may, when the case involves questions of principle, file an appeal before the Court in the interest of law against the decision of the regional section; this last decision shall be a final decision binding on all parties.

For judging the cases with which it is seized by virtue of the provisions of the preceding paragraph, the Court shall include the judges who preside over the regional sections.



## ARTICLE 14

Claims based on Articles 1, 2, 3, 5 and 8 will not be accepted unless submitted within a period of five years from the date on which the act giving rise to such claims occurred. Such shall also be the case with claims of every nature based on the provisions of the present Title, as regards litigation between the Community and the member States or the territorial collectivities of these States.

In the case of claims resulting from injury to persons and damage to property caused by traffic accidents, however, the period shall be three years.

## ARTICLE 15

The decisions of the Court, the decisions of the regional sections, and the final decisions of local Indemnity Commissions shall be carried into effect under the conditions specified in Article 66 of the Treaty.

## ARTICLE 16

Only the Court shall be competent to rule on matters involving litigation of every nature between the Community and the member States or territorial collectivities of these States relative to application of the provisions of the present Title.

*Chapter III—Special Provision*

## ARTICLE 17

The Community shall be responsible for damage caused by the maneuvers or exercises conducted by the European Defense Forces, as well as the damages caused by their billeting.

The conditions for reporting and estimating such damages and the periods within which claims must be submitted shall be specified in regulations issued by the Commissariat with the agreement of the Council, acting by a two-thirds majority vote, after consultation with the governments of interested member States.

## TITLE II—PENAL PROVISIONS

*Chapter I—Penal Provisions*

## ARTICLE 18

Upon the entry into effect of the Treaty, the member States shall transfer to the European Defense Community their powers to mete out punishment for the penal offenses which may be committed by the members of the European Defense Forces.

## ARTICLE 19

Punishment for such penal offenses shall be provided for as soon as possible by common legislation drawn up in conformity with the constitutional regulations of each member State and which shall in addition include the regulations governing judiciary organization and procedure.



*Chapter II—Transitional Provisions*

## ARTICLE 20

Until such time as the common legislation referred to in Article 19 above goes into effect, the provisions of the following Articles shall be applicable on a transitional basis.

## ARTICLE 21

The jurisdictional powers of the Community shall be ensured under the following conditions by judicial bodies exercising a European function.

## ARTICLE 22

The judicial bodies referred to in Article 21 above shall be:

1. The Court, which shall rule on the following under the conditions referred to in Article 30 below:

- a) Cases involving conflicts of jurisdiction;
- b) Questions of law concerning the interpretation of the Treaty, the annexed protocols and their supplementary provisions;
- c) All other cases which shall fall within its competence, particularly as concerns the punishment of certain offenses committed by the persons specified in Article 18 above and constituting grave injury to the interests of the Community.

2. Tribunals, which may be:

European tribunals of national composition which shall be subordinate to a regional section of the Court as regards final appeal;

national tribunals acting by delegation of the Community, in the case where the interested member State deems such a procedure necessary for constitutional reasons or for reasons relating to the general structure of judicial organization.

## ARTICLE 23

The organization and the procedure of the tribunals referred to in Article 22 above, including the modifications to be made in the organization and the procedure of the regional sections of the Court in so far as they rule over penal cases, shall be regulated by the national legislation of the interested member States. These regulations shall be applied as European law with regard to European tribunals.

## ARTICLE 24

Without prejudice to the provisions of paragraph 3 of Article 30 below, the persons referred to in Article 18 shall be tried by the European tribunals of their nationality or by their national tribunals acting by delegation of the Community respectively, as provided for in paragraph 2 of Article 22 above.



## ARTICLE 25

Without prejudice to the exceptions provided for in the present Protocol, dependents residing at posts outside the territory of the State of origin shall be subject to the normally competent jurisdiction of the receiving State.

The exceptions referred to in the preceding paragraph shall be determined in conformity with the constitutional regulations of each of the member States.

## ARTICLE 26

1. The persons referred to in Article 18 of the present Protocol shall remain subject solely to the law of their State of origin, without prejudice to the exception provided for in the present Protocol as concerns local law.

2. Exceptions shall be determined in consideration of the following:

a) The strictly territorial nature of the application of certain regulations, especially as regards road traffic, hunting and fishing;

b) The interests of the receiving State and its inhabitants; this shall be the case in particular as concerns acts which are prejudicial to this State or are committed against its inhabitants, when the law of the State of origin does not recognize these acts as offenses or when it punishes such acts with penalties much less severe than those provided under local law.

3. For the enforcement of the law of the receiving State, a system whereby a correspondence will be established among the various penalties provided under the respective laws of the member States shall be drawn up.

## ARTICLE 27

The right of pardon as regards the penalties pronounced by the judicial bodies provided for in Article 22 above against members of the European Defense Forces shall be exercised by the competent authorities of the State of origin.

## ARTICLE 28

1. The carrying out of penalties entailing deprivation of freedom shall be ensured by the authorities of the State of origin of the member of the European Defense Forces.

2. In the case of penalties entailing deprivation of freedom for a period of less than six months, however, the carrying out of such penalties may be ensured in accordance with the conditions to be set forth in the Convention provided for in Article 30 below.

## ARTICLE 29

1. In the legislation of each of the member States, the provisions punishing offenses which constitute injury to national armed forces, their installations or their members shall be applicable to acts of the same nature committed against the European Defense Forces or their members.



2. In addition, the Government of each of the member States shall submit to the legislative authority such bills as it may deem necessary for ensuring within the territory of such State the security and protection of the European Defense Forces, their installations, equipment, property, and official records and documents, as well as the punishment of violations of such legislation.

#### ARTICLE 30

A special Convention shall stipulate:

1) The organization of the Court, its operating procedure, including the use of languages, and its regulations of jurisdiction, within the limits specified in paragraph 1 of Article 22 above. The principle of absolute equality of the juridical regulations applied by each of the member States, whether such regulations be European or national, shall be respected for the settlement of the conflicts referred to in sub-paragraph 1a of Article 22 above:

2) The provisions necessary for ensuring an effective protection of the interests of the Community as concerns penal matters;

3) The cases in which the right of jurisdiction referred to in Article 24 of the present Protocol may be waived;

4) The exceptions referred to in Article 25. These exceptions shall be determined on the basis of the following principles:

Dependents shall be subject to the jurisdiction of judicial bodies exerting a European function when the offense is committed against the Community, the person or the property of a member of the European Defense Forces. In this case, the judicial body competent to judge the dependent shall be that body which, under the terms of Article 22, would be competent to judge the head of the family, the member of the military forces or of the civil personnel.

In every case, the authorities which shall have competence may waive their right of jurisdiction; they shall examine with the greatest consideration any request which is received prior to such time as the tribunal trying the case has pronounced its verdict and which would result in the defendant being led before a tribunal other than that which would normally be competent.

Minors, as defined by the penal code of their State of origin, shall in every case be referred to the normally competent judicial bodies of their State of origin.

In every case, the competent authorities shall notify one another of their decisions and shall keep one another informed of the subsequent action taken in all affairs;

5) The exceptions referred to in Article 26;

6) The conditions under which the organizations of the Community may institute law suits;

7) The conditions for judicial mutual aid;

8) The judicial competence of the military police and of the police of the receiving State and the conditions for their mutual aid;

9) All other provisions which might prove necessary to placing the present Protocol into effect.



## TITLE III—TRANSITIONAL PROVISIONS RELATIVE TO BELGIUM

In view of the obstacles of a constitutional nature which at this time prevent total application of the provisions of the present Protocol to Belgium, the following provisions are applicable:

## ARTICLE 31

In exception to the provisions of the present Protocol and on a transitional basis, as concerns offenses committed within the territory of the Belgian State by members of the European Defense Forces originating from said State, the right of jurisdiction shall be limited solely to the Belgian courts and tribunals, which shall rule by virtue of the power vested in them and in conformity with Belgian law, as regards the penal code applicable as well as the procedure and the means of ordinary and extraordinary appeal.

## ARTICLE 32

In exception to the provisions of the present Protocol and on a transitional basis, in the case of damage caused on Belgian territory, the victim who does not accept the decision of the local Indemnity Commission and does not see fit to appeal to the regional Section of the Court as provided for in Article 11 above, may, within a period of three months after notification of such decision, institute before the competent Belgian court a civil lawsuit against the Belgian State, which shall be required to make reparation for the damages in so far as its responsibility would be engaged if such damages had been caused by the operation of its own services.

In the latter case, the Belgian State, which will have been condemned to pay an indemnity, may bring suit for reimbursement against the Community before the Court of Justice, which shall rule in accordance with the terms of the present Protocol.

## TITLE IV—DEFINITIONS

## ARTICLE 33

a) The “members of the European Defense Forces” shall include the members of the military element and the members of the civil element.

b) By “civil element” is meant the non-military personnel incorporated in the services of the European Defense Forces under the conditions fixed by the competent authorities of the Community.

c) By “dependent” is meant the spouse of a member of the military element or the civil element, their minor children and, exceptionally, their parents or descendants in direct line who habitually make their residence with such member and who are authorized by the qualified authorities of the Community to accompany the head of the family.

d) By “State of origin” is meant the member State on which the members of the military element or the civil element depended before becoming part of the European Defense Forces.

e) By “receiving State” is meant the member State within the territory of which the members of the military element or the civil element of the European Defense Forces are stationed or are in transit.



## ARTICLE 34

The special Convention referred to in Article 30 above shall set forth the conditions for application of the present Protocol. It shall form part of the jurisdictional statute provided for in Article 67 of the Treaty.

CONVENTION RELATIVE TO THE STATUS OF EUROPEAN  
DEFENSE FORCES AND THE TAX AND COMMERCIAL  
REGIME OF THE EUROPEAN DEFENSE COMMUNITY

## TITLE I—PUBLIC SECURITY

## ARTICLE 1

The members of the European Defense Forces shall be required to respect the laws in force and to refrain from all political activity within the territory of the receiving State.

This requirement shall not interfere with the exercise of political rights, in accordance with the provisions of the internal laws of the State of origin, and under conditions compatible with the status of member of the European Forces.

The Authorities of the European Defense Forces shall ensure that these provisions are complied with and shall take the measures necessary for this purpose. At the request of the competent authorities of the receiving State, they may, in particular, order the immediate transfer of a member of the European Defense Forces who has not respected the requirement set forth in the first paragraph of the present Article, without prejudice to the possible application of disciplinary measures in case the conduct of the party concerned was or would be such as to disturb law and order in the receiving State.

## ARTICLE 2

1. Without prejudice to the provisions of paragraph 2 of the present Article, the members of the European Defense Forces shall be exempt from passport and visa formalities as well as regulations relative to the registration and the control of foreigners.

2. Only the following documents shall be required of members of the European Defense Forces. They shall be presented upon demand:

a) Personal identity card of a standard type but of a different color for military and civil personnel, issued by the qualified authorities of the European Defense Forces, bearing a photograph and the full name, the date and the place of birth, the nationality, the arm or service, the rank or assignment, and, if appropriate, the serial number of the holder.

b) Individual or collective permit, issued by the qualified authorities of the European Defense Forces and indicating the name of the person or unit in question and the purpose of the mission or travel.

The headings on the documents mentioned in paragraphs a) and b) above shall be printed in German, French, Italian, and Dutch.

3. The qualified authorities of the European Defense Forces shall, insofar as possible and using standard procedures, inform the authori-



ties of the interested receiving State of the full names, the date and place of birth, and the nationality of the members of the civil element who would have occasion to enter the territory of said receiving State.

## ARTICLE 3

Dependents residing with members of the European Defense Forces and authorized by the qualified authorities of these Forces to accompany the head of the family must be in possession of a passport issued by the State of origin. Indication of their status as well as the authorization issued to them shall be entered in the passport by the above-mentioned. They shall be exempt from visa formalities and every facility shall be granted them by the receiving State as concerns their obligations under regulations governing residence within the territory of this State.

With these exceptions, dependents shall be subject to the laws of the receiving State as concerns foreigners. However, if a member State or the Commissariat deems that the authorities of the receiving State are making abusive use of the exercise of the laws of this State or are applying such laws in a manner contrary to the essential interests of the Community, they may bring the matter before the Council; the latter may request the receiving State to review the measures or decisions taken, which their State shall then do in taking the interests of the Community fully into account.

## ARTICLE 4

1. Without prejudice to the possible application of the laws of the receiving State as concerns foreigners, the authorities of the European Defense Forces shall be required to ensure the repatriation of members of the European Defense Forces from the territory of a receiving State as soon as they cease to be in the service of these Forces.

2. The authorities of the European Defense Forces shall immediately inform the authorities of the receiving State of any illegal absence exceeding six days.

3. The periods during which a member of the European Defense Forces is present within the territory of one of the member States solely by reason of his status as member of these Forces shall not be considered as periods of residence toward acquisition of the right to permanent residence or domicile or as entailing a change of domicile.

The same shall be true for the dependents referred to in Article 3 above.

## ARTICLE 5

Regularly constituted military units or formations shall have the right of police in all camps, establishments or other installations occupied by them by virtue of an agreement with the receiving State for ensuring the maintenance of order and security in these installations. For this purpose, the police of the receiving State may operate within the installations of the Community with the agreement of the qualified authorities of the Community and in cooperation with the elements of the Community.

The use of the abovementioned military police outside these installations shall be subordinated to an agreement with the authorities of the receiving State and shall take place in liaison with these authorities.



## ARTICLE 6

1. The member States shall consider as valid, without requiring examination, fee or tax, a driving license issued by one among them to a member of the European Defense Forces, or a military driving license issued by the qualified authorities of the European Defense Forces.

2. In the case of internal navigation, certificates testifying to boat-handling ability shall be subject to the general regulations in force in the receiving State. The issuance of a navigation certificate may be the subject of a special convention.

## ARTICLE 7

1. The regulations on road traffic in force in the receiving State shall apply to the European Defense Forces, except where such national legislation is modified upon the advice of the Commissariat in order to take into account the characteristics of certain vehicles or certain military requirements.

2. The competent authorities of the Community shall provide for the registration of all vehicles belonging to the Community, and for the affixing on these vehicles of a registration plate of a uniform type bearing a number and a distinctive marking. The presence of the plate on the vehicle and the possession by the driver of the corresponding registration certificate shall permit travel within the territory of each of the member States.

The competent authorities of the Community shall ensure that the vehicles registered and placed in circulation comply with the regulations in force in the various member States in which they shall have occasion to be used. They shall ensure that the vehicles placed in circulation are inspected and are in proper working order.

## ARTICLE 8

The competent authorities of the Community shall provide for the registry of the aircraft belonging to the Community as well as for the affixing on such aircraft of a distinctive emblem of a uniform type and individualized markings.

These authorities shall ensure that the aircraft registered and placed in service comply with the regulations in force in the member States. Upon the advice of the Commissariat, the member States shall take the necessary measures for ensuring the uniformity of these regulations, particularly as concerns control over the state of navigability and the fitness for flight of aircraft.

The flight certificates of military flying personnel on service at airfields belonging to the European Defense Forces shall be issued or validated, depending upon the case, by the competent authorities of the Community.

The regulations on aerial navigation in force in the receiving State shall apply to the European Defense Forces, except where modifications shall be made in each national legislation because of military necessities upon the advice of the Commissariat and taking into account international conventions.



## ARTICLE 9

The authorities of the European Defense Forces shall draw up regulations on the wearing of the uniform, and these regulations shall be reported to the competent authorities of the member States. Regularly constituted military units and formations shall appear in uniform when they wish to cross frontiers.

## ARTICLE 10

The authorities of the European Defense Forces shall draw up regulations on the wearing and possession of arms by the members of these Forces, and these regulations shall be reported to the competent authorities of the member States.

## ARTICLE 11

The competent authorities of the European Defense Forces shall give friendly consideration to the requests which the authorities of the receiving State may make as concerns the application of the provisions of Articles 9 and 10 above.

## TITLE II—PUBLIC SERVICES AND MILITARY INSTALLATIONS

## ARTICLE 12

The European Defense Forces may benefit from the public services within the territory of the member States, particularly as concerns the following:

- a) Postal and telecommunications services;
- b) Land, sea and air transport;
- c) Electricity, gas, and water supply;
- d) Sanitary services.

The public services referred to in b) above shall include facilities pertaining to the use of public services and, as the case may be, the use of their installations.

The competent authorities of the Community shall notify the competent authorities of the receiving State of their requirements as regards such services.

## ARTICLE 13

Public services shall be furnished under the conditions fixed by special agreements between the Community and the authorities or organizations designated by the receiving State.

The public services furnished the European Defense Forces shall be paid for by the Community on the basis of the regulations and rates in effect in the receiving State. In the absence of a regulation or rate corresponding to the service furnished, such service shall be paid for under the terms set forth in a special agreement between the competent authorities of the receiving State and the Community. Special agreements between the competent authorities of the receiving State and the Community may eventually stipulate conditions and rates different from those resulting from the provisions in force in the receiving State.



## ARTICLE 14

On an exceptional basis, certain installations of public services may be placed at the exclusive disposal of the European Defense Forces by special agreement between the competent authorities of the receiving State and the Community.

## ARTICLE 15

Cooperation between the services contributing to the security of aerial navigation and the meteorological service of the receiving State, on the one hand, and the corresponding services of the Community, on the other, shall be the subject of special agreements between the competent authorities of the receiving State and the Community.

## ARTICLE 16

For railway transportation of members of the European Defense Forces, the competent authorities of the receiving State shall grant, under the conditions to be fixed by special agreements and subject to reimbursement by the Community, the reductions or exemptions in fares which would be requested by the Community. Under the conditions set forth in the special agreements, account shall be taken for such reimbursement of the increase in traffic due to the reductions or exemptions in fares.

For highway transportation of the persons referred to in the preceding paragraph and without prejudice to the rate terms which may be freely agreed to by the transporters, reductions in fares may be granted upon the request of the Community and under the technical and financial conditions to be fixed by special agreement concluded with the competent authorities of the receiving State to the extent that these authorities would be legally able to obtain such conditions from certain transporters. The financial agreements shall provide for reimbursement by the Community, under conditions similar to those indicated in the preceding paragraph, unless the competent authorities of the receiving State agree to conditions more favorable to the Community.

## ARTICLE 17

When the means placed at the disposal of the European Defense Forces as concerns public services are judged insufficient to meet the requirements of these Forces, the competent authorities of the receiving State and of the Community shall seek the bases of an agreement for satisfying these requirements, taking into account the provisions of Articles 3 and 102 of the Treaty. This agreement shall cover the choice of means (either, and preferably, adjustment of the use of public services or the use of their installations, or modification, reinforcement or expansion of existing installations, or, if necessary, creation of special installations) as well as the location and technical characteristics of the new installations.

## ARTICLE 18

1. In order to facilitate the conclusion of the agreement referred to in Article 17 above, the competent authorities of the receiving State



or those of the Community may call a meeting of a Mixed Commission composed of qualified experts.

If an agreement is not reached within a reasonable period of time, the Commission shall formulate a recommendation which the receiving State may refer to the Council within a period of one month from such notification; however, such recommendation may not serve to hamper the normal operation of the public services of the receiving State. The receiving State must comply with the recommendation of the Commission if this recommendation is confirmed by a two-thirds majority vote of the Council.

2. The privilege which the member States enjoy by virtue of Article 56 of the Treaty is not affected by the above provisions.

#### ARTICLE 19

The modification, reinforcement or expansion of existing installations, as well as the creation of special installations, shall be carried out under the conditions set forth below.

The expenditures pertaining to such operations are, in principle, borne by the Community. However, in case these operations shall also serve to satisfy the requirements of the receiving State itself, these expenditures shall be shared by the Community and the receiving State according to proportions to be fixed by special agreement. This agreement may provide for advances of funds from the Community to the receiving State.

The installations, as well as the land on which they are located, are the property of the receiving State.

Work on such installations shall be carried out by the receiving State.

#### ARTICLE 20

The receiving State shall ensure the operation and the maintenance of the existing installations which have been modified, reinforced or expanded, as well as the special installations created in accordance with the provisions of Articles 17, 18 and 19 above.

The operating and maintenance expenditures shall be borne by the receiving State, without prejudice to the application of Article 14 above.

The services furnished the European Defense Forces by means of these installations shall be paid for under the conditions stipulated in Article 13 above.

#### ARTICLE 21

1. The competent authorities of the Community shall notify the competent authorities of the receiving State of their requirements as concerns installations of a military nature, which are to be used exclusively by the European Defense Forces.

The competent authorities of the receiving State and of the Community shall seek the bases of an agreement for satisfying these requirements, taking into account the provisions of Articles 3 and 102 of the Treaty. This agreement shall cover the choice of means (modification of existing installations or, if necessary, creation of new installations). In the case of new installations, the agreement shall



also cover their location and their technical characteristics; in this respect, the agreement may contain specific exceptions to national legislation and regulations, justified by military necessities though in keeping with considerations of public security.

In order to facilitate the conclusion of the above-mentioned agreement, the competent authorities of the receiving State or those of the Community may call a meeting of a Mixed Commission composed of qualified experts.

If an agreement is not reached within a reasonable period of time, the Commission shall take a decision which the receiving State may refer to the Council within a period of one month from such notification. However, this decision shall not serve to compel the receiving State to make exceptions to its legislation and to its national regulations or to its international commitments; this decision shall also be in keeping with considerations of public security.

The receiving State shall comply with the decision of the Commission if this decision is confirmed by a two-thirds majority vote of the Council.

2. The privilege which the member States enjoy by virtue of Article 56 of the Treaty is not affected by the above provisions.

#### ARTICLE 22

Installations such as those referred to in Article 21 above, which are the property of the receiving State, shall be placed at the disposal of the Community free of charge in the maintenance condition in which they are found. The Community shall pay the taxes and fees pertaining to such installations to the extent that it is not exempt from such taxes and fees under the provisions in effect. The maintenance and possibly the repairing of such installations shall be ensured by the Community under the conditions set forth in Article 25 below.

If the Community wishes to make any transformations in these installations, it shall obtain the authorization of the owner State. Work on such installations shall be carried out under the conditions stipulated in Article 25 below.

#### ARTICLE 23

If the receiving State places at the disposal of the Community installations such as those referred to in Article 21 above, which are not its property, the expenditures which it must bear as a consequence of this fact are fully reimbursed to it by the Community.

#### ARTICLE 24

If the creation of new installations, such as those referred to in Article 21 above, necessitates the purchase of real estate, such property shall be purchased by the Community at its expense. However, the receiving State may decide to purchase such property itself at its expense; in this case, such property is then placed at the disposal of the Community under the conditions specified in Article 22 above.

At the request of the Community, the receiving State shall employ the most effective procedures at its disposal for the purchase of such property.



## ARTICLE 25

In the construction of new installations, such as those referred to in Article 21 above, the work shall be carried out either by the Community under the conditions provided for in Article 104 of the Treaty or, after agreement, by the receiving State. In both cases, the expenditure is borne by the Community.

The maintenance of the installations shall be assured under the same conditions.

## ARTICLE 26

When the Community no longer has need of an installation created by it on land belonging to it or belonging to the receiving State, it shall determine the condition in which such installation shall be left in making therein only those transformations required by military necessities.

In case this installation is constructed on land belonging to the receiving State, the increase or decrease in the value of the installation shall be estimated and the corresponding financial settlement made.

In case the Community is owner of the land, the receiving State may exert a right of eminent domain on the property to be disposed of.

## ARTICLE 27

1. The civil labor necessary for carrying out the tasks of the European Defense Community within the frontiers of each receiving State shall, insofar as possible, be placed at the disposal of the Community through the channel of the competent authorities charged with the employment of workers of this State.

2. The European Defense Community shall have the status of employer of this civil labor. In particular, it may conclude collective bargaining contracts. Hiring and working conditions of civil labor shall be governed by the laws of the receiving State.

In no case shall the labor employed by the Community have the status of member of the military or civil elements.

## ARTICLE 28

The agreements concluded between the competent authorities of the receiving State and of the Community as concerns the satisfaction of the requirements of the Forces shall take into account the rights applicable to and the obligations incumbent upon other Forces stationed on the territory of such State, in order to assure the requirements of the European Defense Forces under conditions which will not jeopardize the interests of the Community.

## TITLE II—TAX AND COMMERCIAL REGIME OF THE COMMUNITY

*Chapter I—Tax and Customs Regime Taxes on Sales and Consumption*

## ARTICLE 29

The goods acquired on the territory of the member States by the European Defense Community, hereafter referred to as the Community, as well as the supplies and other services furnished to the



Community by enterprises situated on the territory of a member State shall be subject to the duties and taxes applicable in the country in question. These operations shall be considered neither as exports nor as imports from the tax or commercial point of view.

#### ARTICLE 30

The transportation of goods acquired by the Community in the conditions foreseen by Article 29 of the present Convention from the territory of one member State to the territory of another member State shall not be considered by the State of origin as an export, nor by the State of destination as an import. Such transportation shall not give rise to the payment or refund of duties or taxes in force in the countries in question at the time of exportation or importation. Such transportation shall not be subjected to restrictions arising from laws concerning the commercial relations between the member States.

#### ARTICLE 31

The goods acquired by the Community in a non-member State shall be subject, at the time of their entry into the territory of the Community, to the duties and taxes applicable on the territory of the member State on which final customs clearance will take place. Their subsequent circulation on the territory of the member States shall be governed by Article 30 above.

Notwithstanding the provisions of the preceding paragraph, there shall be established a list of specifically military matériel for which there shall be provided, at the time of its final customs clearance, exemption from customs duties on purchases in a non-member State, but not from indirect taxes or compensatory duties for indirect taxes.

#### ARTICLE 32

Upon the recommendation of the Commissariat, made by the latter after consultation with the governments of the States concerned, the provisions of Articles 29 and 31 of this Convention may be revised by unanimous decision of the Council with a view to attaining uniformization and alleviation of taxes and customs duties payable on purchases made by the Community.

#### ARTICLE 33

The goods furnished free of charge to the Community by means of foreign aid shall not be subjected to any duties or taxes either at the time of entry or when circulating on the territory of the member States.

The Commissariat is authorized to insert in the foreign aid agreements described in Article 99 of the Treaty establishing the European Defense Community tax exemption clauses for purchases financed by foreign aid and made in the interests of defense on the territory of the member States, which are analagous to those contained or to be contained in bilateral agreements between the member States and the State which furnishes foreign aid.

At the request of a member State the Council of Ministers of the Community shall examine the possibility of an appropriate Compen-



sation in the case where the application of the preceding provisions results in an unequal burden for any member State.

## ARTICLE 34

If the application of the provisions of Articles 29 to 31 above to certain products taxed at a particularly high rate gives rise to substantial difficulties in the economy or finances of a member State, the Council, at the request of that State, shall take the necessary remedial measures. Aside from other appropriate measures, the Council may suspend application of the tax regime defined above.

## ARTICLE 35

The preceding provisions do not imply the suppression of frontier controls; however the member States shall simplify the necessary formalities to the extent possible.

## ARTICLE 36

Goods brought onto the territory of a member State, which have profited from the provisions of Articles 29 to 31 above, may be transferred by the Community, with or without payment, only with the authorization of the State concerned and in the circumstances to be determined by agreement between the Community and such State.

## ARTICLE 37

At the request of a member State the regime provided for in the above articles may, by unanimous decision of the Council, be revised or completed by a system of compensating for tax receipts, as the economic and financial relations of the member States evolve as a result of the existence of the Community. Such a revision shall in any case be studied when the burden-sharing method provided for in Article 94 of the Treaty establishing the Community comes into effect.

## ARTICLE 38

The personnel of the Community shall be subject to the consumption and sales taxes applicable in the State where they are stationed. They shall also be subject to customs duties on imports or exports except as otherwise provided for in the case of official travel.

*Chapter II—Other Taxes*

## ARTICLE 39

The Community shall be exempted from payment of all taxes on income and capital except for:

- a) taxes on the assets of the Community which are not directly utilized for its normal activity;
- b) taxes on profit or income on the assets covered in subparagraph (a) above as well as on agriculture, industrial or business income.
- c) Taxes representing payment for public services.



## ARTICLE 40

In principle, the Community shall not benefit from any exemption from any other taxes, except for exemptions provided for by agreement between the Community and the member States.

## ARTICLE 41

1. The fact that persons paid by the Community exercise their official functions in a member State other than their country of residence at the time they enter the service of the Community shall not result in a change in their domicile for purposes of income, capital, or gift and inheritance taxes. These provisions shall also be applicable to wives or husbands and children of minor age of the persons concerned.

In the country of stationing such persons shall be exempted only from taxes on income received from the Community.

Upon recommendation of the Commissariat, the Council may, by unanimous vote, determine the categories of officials of high rank of the institutions of the Community who shall, in limited numbers, be exempted in their state of origin from all taxes on income and emoluments received from the Community; these exemptions may entail an imposition on such officials of taxes for the benefit of the Community in a manner also to be decided upon by unanimous vote of the Council.

2. In the application of inheritance duties, property belonging to persons described in paragraph 1 of the present article and situated on the territory of the country of stationing shall be considered as being in the country of domicile.

## ARTICLE 42

At the request of a member State and according to the procedures which that State establishes, the Community shall retain for the profit of such State the taxes due on the salaries and other payments received from the Community by the individuals concerned.

*Chapter III—General Provisions*

## ARTICLE 43

The tax regime for canteens and military restaurants shall be the subject of special agreements between the Community and the State where such establishments are located.

## ARTICLE 44

The Community shall furnish all useful assistance in the tax and customs fields to the member States which shall so request.

## ARTICLE 45

The details of application of the general principles enunciated in this Convention shall be established by a special tax agreement which shall recapitulate, complete and elaborate upon the provisions of this



Convention. This agreement shall be drafted by the Commissariat and approved by the Council by unanimous vote. The details of application of this Convention may also, if necessary, be established by agreements between the Community and the member States.

#### TITLE IV—FINAL DISPOSITIONS

##### ARTICLE 46

The definitions contained under Title IV of the Jurisdictional Protocol annexed to the Treaty instituting the European Defense Community shall apply to the present Convention.

##### ARTICLE 47

The regulations of the Treaty defining the operation of the institutions of the Community shall apply as concerns their intervention such as it is provided for under the present Convention.

In particular, recourse to the Court is open within the framework of the present Convention in the cases and in the conditions where such recourse would be open under the terms of the Treaty.

##### ARTICLE 48

Any State which shall be party to the Treaty under the conditions provided for in Article 129 of said Treaty, shall be party to the present Convention.

##### ARTICLE 49

The present Convention shall be ratified, the instruments of ratification shall be deposited with the Government of the French Republic which shall notify such deposit to the Governments of the other member States.

##### ARTICLES 50

The present Convention will enter into effect at the same time as the Treaty establishing the European Defense Community.







## TRIPARTITE DECLARATION

The Governments of France, the United Kingdom of Great Britain and Northern Ireland, and the United States of America have signed conventions with the German Federal Republic which will establish a new relationship with that country. These conventions, as well as the treaties for a European Defense Community and a European Coal and Steel Community, of which France is a signatory, provide a new basis for uniting Europe and for the realization of Germany's partnership in the European Community. They are designed to prevent the resurgence of former tensions and conflicts among the free nations of Europe and any future revival of aggressive militarism. They make possible the removal of the special restraints hitherto imposed on the Federal Republic of Germany and permit its participation as an equal partner in Western defense.

These conventions and treaties respond to the desire to provide by united efforts for the prosperity and security of Western Europe. The Governments of the United Kingdom and the United States consider that the establishment and development of these institutions of the European Community correspond to their own basic interests and will therefore lend them every possible cooperation and support.

Moreover, Western Defense is a common enterprise in which the Governments of the United Kingdom and the United States are already partners through membership of the North Atlantic Treaty Organization.

These bonds are now strengthened by the system of reciprocal guarantees agreed to between the member States of the European Defense Community, between these member States and the United Kingdom and also between these member States and the member States of the North Atlantic Treaty Organization.

For these various reasons, including the fact that these new guarantees will apply to the States concerned only as members of one or the other of these organizations, the Governments of the United Kingdom and the United States have an abiding interest, as has the Government of France, in the effectiveness of the treaty creating the European Defense Community and in the strength and integrity of that Community. Accordingly, if any action from whatever quarter threatens the integrity or unity of the Community, the two Governments will regard this as a threat to their own security. They will act in accordance with Article 4 of the North Atlantic Treaty. Moreover, they have each expressed their resolve to station such forces on the continent of Europe, including the Federal Republic of Germany, as they deem necessary and appropriate to contribute to the joint defense of the North Atlantic Treaty area, having regard to their obligations under the North Atlantic Treaty, their interest in the integrity of the European Defense Community, and their special responsibilities in Germany.

The security and welfare of Berlin and the maintenance of the position of the three powers there are regarded by the three powers



as essential elements of the peace of the free world in the present international situation. Accordingly, they will maintain armed forces within the territory of Berlin as long as their responsibilities require it. They therefore reaffirm that they will treat any attack against Berlin from any quarter as an attack upon their forces and themselves.

These new security guarantees supersede the assurances contained in the declaration of the Foreign Ministers of France, the United Kingdom and the United States at New York on September 19th, 1950.

DEAN ACHESON  
SCHUMAN  
ANTHONY EDEN

PARIS, *May 27th, 1952.*



# TREATY CONSTITUTING THE EUROPEAN COAL AND STEEL COMMUNITY

## *TREATY*

The President of the German Federal Republic, His Royal Highness the Prince Royal of Belgium, the President of the French Republic, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands,

Considering that world peace may be safeguarded only by creative efforts equal to the dangers which menace it;

Convinced that the contribution which an organized and vital Europe can bring to civilization is indispensable to the maintenance of peaceful relations;

Conscious of the fact that Europe can be built only by concrete actions which create a real solidarity and by the establishment of common bases for economic development;

Desirous of assisting through the expansion of their basic production in raising the standard of living and in furthering the works of peace;

Resolve to substitute for historic rivalries a fusion of their essential interests; to establish, by creating an economic community, the foundation of a broad and independent community among peoples long divided by bloody conflicts; and to lay the bases of institutions capable of giving direction to their future common destiny;

Have decided to create a European Coal and Steel Community and to this end have designated as plenipotentiaries:

The President of the German Federal Republic:

Dr. Konrad Adenauer, Chancellor and Minister for Foreign Affairs;

His Royal Highness the Prince Royal of Belgium:

Mr. Paul van Zeeland, Minister for Foreign Affairs,  
Mr. Joseph Meurice, Minister for Foreign Trade;

The President of the French Republic:

Mr. Robert Schuman, Minister for Foreign Affairs;

The President of the Italian Republic:

Mr. Carlo Sforza, Minister for Foreign Affairs;

Her Royal Highness the Grand Duchess of Luxembourg:

Mr. Joseph Bech, Minister for Foreign Affairs;

Her Royal Highness the Queen of the Netherlands:

Mr. D. U. Stikker, Minister for Foreign Affairs,  
Mr. J. R. M. van den Brink, Minister of Economic Affairs;



Which, having exchanged their powers, found in good and due form, have agreed to the following provisions.

## TITLE ONE—THE EUROPEAN COAL AND STEEL COMMUNITY

### ARTICLE 1

By the present Treaty the High Contracting Parties institute among themselves a EUROPEAN COAL AND STEEL COMMUNITY, based on a common market, common objectives, and common institutions.

### ARTICLE 2

The mission of the European Coal and Steel Community is to contribute to economic expansion, the development of employment and the improvement of the standard of living in the participating countries through the institution, in harmony with the general economy of the member States, of a common market as defined in Article 4.

The Community must progressively establish conditions which will in themselves assure the most rational distribution of production at the highest possible level of productivity, while safeguarding the continuity of employment and avoiding the creation of fundamental and persistent disturbances in the economies of the member States.

### ARTICLE 3

Within the framework of their respective powers and responsibilities and in the common interest, the institutions of the Community shall:

(a) see that the common market is regularly supplied, taking account of the needs of third countries;

(b) assure to all consumers in comparable positions within the common market equal access to the sources of production;

(c) seek the establishment of the lowest prices which are possible without requiring any corresponding rise either in the prices charged by the same enterprises in other transactions or in the price-level as a whole in another period, while at the same time permitting necessary amortization and providing normal possibilities of remuneration for capital invested;

(d) see that conditions are maintained which will encourage enterprises to expand and improve their ability to produce and to promote a policy of rational development of natural resources, avoiding inconsiderate exhaustion of such resources;

(e) promote the improvement of the living and working conditions of the labor force in each of the industries under its jurisdiction so as to make possible the equalization of such conditions in an upward direction;

(f) further the development of international trade and see that equitable limits are observed in prices charged on external markets;

(g) promote the regular expansion and the modernization of production as well as the improvement of its quality, under conditions which preclude any protection against competing indus-



tries except where justified by illegitimate action on the part of such industries or in their favor.

#### ARTICLE 4

The following are recognized to be incompatible with the common market for coal and steel, and are, therefore, abolished and prohibited within the Community in the manner set forth in the present Treaty:

(a) import and export duties, or charges with an equivalent effect, and quantitative restrictions on the movement of coal and steel;

(b) measures or practices discriminating among producers, among buyers or among consumers, specifically as concerns prices, delivery terms and transportation rates, as well as measures or practices which hamper the buyer in the free choice of his supplier;

(c) subsidies or state assistance, or special charges imposed by the state, in any form whatsoever;

(d) restrictive practices tending towards the division of markets or the exploitation of the consumer.

#### ARTICLE 5

The Community shall accomplish its mission, under the conditions provided for in the present Treaty, with limited direct intervention.

To this end, the Community will:

Enlighten and facilitate the action of the interested parties by collecting information, organizing consultations and defining general objectives;

place financial means at the disposal of enterprises for their investments and participate in the expenses of readaptation;

assure the establishment, the maintenance and the observance of normal conditions of competition and take direct action with respect to production and the operation of the market only when circumstances make it absolutely necessary;

publish the justifications for its action and take the necessary measures to ensure observance of the rules set forth in the present Treaty.

The institutions of the Community shall carry out these activities with as little administrative machinery as possible and in close cooperation with the interested parties.

#### ARTICLE 6

The Community shall have juridical personality.

In its international relationships, the Community shall enjoy the juridical capacity necessary to the exercise of its functions and the attainment of its ends.

In each of the member States, the Community shall enjoy the most extensive juridical capacity which is recognized for legal persons of the nationality of the country in question. Specifically, it may acquire and transfer real and personal property, and may sue and be sued in its own name.



The Community shall be represented by its institutions, each one of them acting within the framework of its own powers and responsibilities.

## TITLE TWO—THE INSTITUTIONS OF THE COMMUNITY

### ARTICLE 7

The institutions of the Community shall be as follows:

- a High Authority, assisted by a *Consultative Committee*;
- a Common Assembly, hereafter referred to as “the Assembly”;
- a Special Council, composed of Ministers, hereafter referred to as “the Council”;
- a Court of Justice, hereafter referred to as “the Court”.

### *Chapter I—The High Authority*

### ARTICLE 8

The High Authority shall be responsible for assuring the fulfillment of the purposes stated in the present Treaty under the terms thereof.

### ARTICLE 9

The High Authority shall be composed of nine members designated for six years and chosen for their general competence.

A member shall be eligible for reappointment. The number of members of the High Authority may be reduced by unanimous decision of the Council.

Only nationals of the member States may be members of the High Authority.

The High Authority may not include more than two members of the same nationality.

The members of the High Authority shall exercise their functions in complete independence, in the general interest of the Community. In the fulfillment of their duties, they shall neither solicit nor accept instructions from any government or from any organization. They will abstain from all conduct incompatible with the supranational character of their functions.

Each member State agrees to respect this supranational character and to make no effort to influence the members of the High Authority in the execution of their duties.

The members of the High Authority may not exercise any business or professional activities, paid or unpaid, nor acquire or hold, directly or indirectly, any interest in any business related to coal and steel during their term of office or for a period of three years thereafter.

### ARTICLE 10

The governments of the member States shall designate eight members of the High Authority by agreement among themselves. These eight members will elect a ninth member, who shall be deemed elected if he receives at least five votes.

The members thus designated will remain in office for six years following the date of the establishment of the common market.



In case a vacancy should occur during this first period for one of the reasons set forth in Article 12, it will be filled under the provisions of the third paragraph of that article, by common agreement among the governments of the member States.

If, during the same period, the provisions of the third paragraph of Article 24 should be applied, the members of the High Authority shall be replaced under the provisions of the first paragraph of the present article.

At the expiration of this period, a complete redesignation shall take place, and the nine members shall be designated as follows: the governments of the member States, in the absence of unanimous agreement, will designate eight members by a five-sixths majority; the ninth will be chosen by vote of these eight under the terms of the first paragraph of the present article. The same procedure shall apply to a complete redesignation rendered necessary by application of Article 24.

One third of the members of the High Authority shall be redesignated every two years.

Whenever a complete redesignation shall occur, the sequence of retirement shall be immediately determined by lot on the initiative of the President of the Council.

The regular redesignations resulting from the expiration of the two-year periods shall be made alternately in the following order: by designation of the governments of the member States under the terms of the fifth paragraph of the present article, and by vote of the remaining members of the High Authority under the terms of the first paragraph.

If vacancies should occur for one of the reasons provided in Article 12, these shall be filled under the provisions of the third paragraph of that article, alternatively, in the following order: by designation of the governments of the member States under the terms of the fifth paragraph of the present article, and by vote of the remaining members of the High Authority in accordance with the provisions of the first paragraph.

In all cases provided for in the present article where a member is designated by the governments by a five-sixths majority or by vote of the members of the High Authority, each government shall have a veto right under the following conditions:

If a government has used its right of veto with respect to two persons in the case of an individual redesignation and of four persons in the case of a general or biennial redesignation, any other exercise of that right on the same occasion may be referred to the Court by another government; the Court may declare the veto null and void if it considers it abusive.

Except in the case of removal under the provisions of the second paragraph of Article 12, the members of the High Authority shall remain in office until their replacement.

#### ARTICLE 11

The President and the Vice President of the High Authority shall be designated from among the membership of the High Authority for two years, in accordance with the procedure provided for the desig-



nation of the members of the High Authority by the governments of the member States. They may be reelected.

Except in the case of a complete redesignation of the membership of the High Authority, the designation of the President and Vice President shall be made after consultation with the High Authority.

#### ARTICLE 12

In addition to the provisions for regular redesignation, the terms of office of a member of the High Authority may be terminated by death or resignation.

Members who no longer fulfill the conditions necessary to the exercise of their functions or who have committed a gross fault may be removed from office by the Court on petition by the High Authority or the Council.

In the cases provided in the present Article, the member in question shall be replaced for the remainder of his term, under the provisions of Article 10. There shall be no such replacement if the remainder of his term is less than three months.

#### ARTICLE 13

The High Authority shall act by vote of a majority of its membership.

Its quorum shall be fixed by its rules of procedure. However, this quorum must be greater than one-half of its membership.

#### ARTICLE 14

In the execution of its responsibilities under the present Treaty and in accordance with the provisions thereof, the High Authority shall issue decisions, recommendations and opinions.

Decisions shall be binding in all their details.

Recommendations shall be binding with respect to the objectives which they specify but shall leave to those to whom they are directed the choice of appropriate means for attaining these objectives.

Opinions shall not be binding.

When the High Authority is empowered to issue a decision, it may limit itself to making a recommendation.

#### ARTICLE 15

The decisions, recommendations and opinions of the High Authority shall state the reasons therefor, and shall take note of the opinions which the High Authority is required to obtain.

When such decisions and recommendations are individual in character, they shall be binding on the interested party upon their notification to him.

In other cases, they shall take effect automatically upon publication.

The High Authority shall determine the manner in which the provisions of the present article are to be carried out.



## ARTICLE 16

The High Authority shall take all appropriate measures of an internal nature to assure the functioning of its services.

It may institute study Groups and specifically an economic study Group.

Within the framework of general organizational regulations established by the High Authority, the President of the High Authority shall be responsible for the administration of its services, and shall insure the execution of the acts of the High Authority.

## ARTICLE 17

The High Authority shall publish annually, at least a month before the meeting of the Assembly, a general report on the activities of the Community and on its administrative expenditures.

## ARTICLE 18

There shall be created a Consultative Committee, attached to the High Authority. It shall consist of not less than thirty and not more than fifty-one members, and shall include producers, workers and consumers and dealers in equal numbers.

The members of the Consultative Committee shall be appointed by the Council.

As concerns producers and workers, the Council shall designate the representative organizations among which it shall allocate the seats to be filled. Each organization shall be asked to draw up a list comprising twice the number of seats allocated to it. Designations shall be made from this list.

The members of the Consultative Committee shall be designated in their individual capacity. They shall not be bound by any mandate or instruction from the organizations which proposed them as candidates.

A President and officers shall be elected for one-year terms by the Consultative Committee from its own membership. The Committee shall fix its own rules of procedure.

The allowances of members of the Consultative Committee shall be determined by the Council on proposal by the High Authority.

## ARTICLE 19

The High Authority may consult the Consultative Committee in any case it deems proper. It shall be required to do so whenever such consultation is prescribed by the present Treaty.

The High Authority shall submit to the Consultative Committee the general objectives and programs established under the terms of Article 46, and shall keep the Committee informed of the broad lines of its action under the terms of Articles 54, 65 and 66.

If the High Authority deems it necessary, it shall give the Consultative Committee a period in which to present its opinion of not less than ten days from the date of the notification to that effect addressed to the President of the Committee.



The Consultative Committee shall be convoked by its President, either at the request of the High Authority or at the request of a majority of its members, for the purpose of discussing a given question.

The minutes of the meetings shall be transmitted to the High Authority and to the Council at the same time as the opinions of the Committee.

Chapter II—The Assembly

ARTICLE 20

The Assembly, composed of representatives of the peoples of the member States of the Community, shall exercise the supervisory powers which are granted to it by the present Treaty.

ARTICLE 21

The Assembly shall be composed of delegates whom the parliaments of each of the member States shall be called upon to designate once a year from among their own membership, or who shall be elected by direct universal suffrage, according to the procedure determined by each respective High Contracting Party.

The number of delegates is fixed as follows :

Germany	18
Belgium	10
France	18
Italy	18
Luxembourg	4
Netherlands	10

The representatives of the people of the Saar are included in the number of delegates attributed to France.

ARTICLE 22

The Assembly shall hold an annual session. It shall convene regularly on the second Tuesday in May. Its session may not last beyond the end of the then current fiscal year.

The Assembly may be convoked in extraordinary session on the request of the Council in order to state its opinion on such questions as may be put to it by the Council.

It may also meet in extraordinary session on the request of a majority of its members or of the High Authority.

ARTICLE 23

The Assembly shall designate its President and officers from among its membership.

The members of the High Authority may attend all meetings. The President of the High Authority or such of its members as it may designate shall be heard at their request.

The High Authority shall reply orally or in writing to all questions put to it by the Assembly or its members.

The members of the Council may attend all meetings and shall be heard at their request.



## ARTICLE 24

The Assembly shall discuss in open session the general report submitted to it by the High Authority.

If a motion of censure on the report is presented to the Assembly, a vote may be taken thereon only after a period of not less than three days following its introduction, and such vote shall be by open ballot.

If the motion of censure is adopted by two-thirds of the members present and voting, representing a majority of the total membership, the members of the High Authority must resign in a body. They shall continue to carry out current business until their replacement in accordance with Article 10.

## ARTICLE 25

The Assembly shall fix its own rules of procedure, by vote of a majority of its total membership.

The acts of the Assembly shall be published in a manner to be prescribed in such rules of procedure.

*Chapter III—The Council*

## ARTICLE 26

The Council shall exercise its functions in the events and in the manner provided in the present Treaty, in particular with a view to harmonizing the action of the High Authority and that of the governments, which are responsible for the general economic policy of their countries.

To this end, the Council and the High Authority shall consult together and exchange information.

The Council may request the High Authority to examine all proposals and measures which it may deem necessary or appropriate for the realization of the common objectives.

## ARTICLE 27

The Council shall be composed of representatives of the member States. Each State shall designate thereto one of the members of its government.

The Presidency of the Council shall be exercised for a term of three months by each member of the Council in rotation in the alphabetical order of the member States.

## ARTICLE 28

Meetings of the Council shall be called by its President on the request of a State or of the High Authority.

When the Council is consulted by the High Authority, it may deliberate without necessarily proceeding to a vote. The minutes of its meetings shall be forwarded to the High Authority.

Wherever the present Treaty requires the concurrence of the Council, this concurrence shall be deemed to have been granted if the proposal submitted by the High Authority is approved:

by an absolute majority of the representatives of the member States, including the vote of the representative of one of the



States which produces at least twenty percent of the total value of coal and steel produced in the Community;

or, in case of an equal division of votes, and if the High Authority maintains its proposal after a second reading, by the representatives of two member States, each of which produces at least twenty percent of the total value of coal and steel in the Community.

Wherever the present Treaty requires a unanimous decision or unanimous concurrence, such decision or concurrence will be adopted if supported by the votes of all the members of the Council.

The decisions of the Council, other than those which require a qualified majority or a unanimous vote, will be taken by a vote of the majority of the total membership. This majority shall be deemed to exist if it includes the absolute majority of the representatives of the member States including the vote of the representative of one of the States which produces at least twenty percent of the total value of coal and steel produced in the Community.

In case of a vote, any member of the Council may act as proxy for not more than one **other member**.

The Council shall communicate with the member States through the intermediary of its President.

The acts of the Council shall be published under a procedure which it shall establish.

#### ARTICLE 29

The Council shall fix the salaries, allowances and pensions of the President and members of the High Authority, and of the President, the judges, the Court advocates and the clerk of the Court.

#### ARTICLE 30

The Council shall establish its own rules of procedure.

### *Chapter IV—The Court*

#### ARTICLE 31

The function of the Court is to ensure the rule of the law in the interpretation and application of the present Treaty and of its implementing regulations.

#### ARTICLE 31

The Court shall be composed of seven judges, appointed for six years by agreement among the governments of the member States from among persons of recognized independence and competence.

A partial change in membership of the Court shall occur every three years, affecting alternatively three members and four members. The three members whose terms expire at the end of the first period of three years shall be designated by lot.

Judges shall be eligible for reappointment.

The number of judges may be increased by unanimous vote of the Council on proposal by the Court.

The judges shall designate one of their number as President for a three-year term.



## ARTICLE 33

The court shall have jurisdiction over appeals by a member State or by the Council for the annulment of decisions and recommendations of the High Authority on the grounds of lack of legal competence, substantial procedural violations, violation of the Treaty or of any rule of law relating to its application, or abuse of power. However, the Court may not review the conclusions of the High Authority, drawn from economic facts and circumstances, which formed the basis of such decisions or recommendations, except where the High Authority is alleged to have abused its powers or to have clearly misinterpreted the provisions of the Treaty or of a rule of law relating to its application.

The enterprises, or the associations referred to in Article 48, shall have the right of appeal on the same grounds against individual decisions and recommendations concerning them, or against general decisions and recommendations which they deem to involve an abuse of power affecting them.

The appeals provided for in the first two paragraphs of the present article must be taken within one month from the date of the notification or the publication, as the case may be, of the decision or recommendation.

## ARTICLE 34

If the Court should annul a decision or recommendation of the High Authority, the matter shall be remanded to the High Authority. The latter must take the necessary measures in order to give effect to the judgment of annulment. In case a decision or recommendation is adjudged by the Court to involve a fault for which the Community is liable, and causes a direct and particular injury to an enterprise or a group of enterprises, the High Authority must take such measures, within the powers granted to it by the present Treaty, as will assure an equitable redress for the injury resulting directly from the decision or recommendation which has been annulled, and, to the extent necessary, must grant a reasonable indemnity.

If the High Authority fails to take within a reasonable period the measures required to give effect to a judgment of annulment, an appeal for damages may be brought before the Court.

## ARTICLE 35

In the cases where the High Authority is required by a provision of the present Treaty or of implementing regulations to issue a decision or recommendation, and fails to fulfill this obligation, such omission may be brought to its attention by the States, the Council or the enterprises and associations, as the case may be.

The same shall be true if the High Authority refrains from issuing a decision or recommendation which it is empowered to issue by a provision of the present Treaty or implementing regulations, where such failure to act constitutes an abuse of power.

If at the end of a period of two months the High Authority has not issued any decision or recommendation, an appeal may be brought before the Court, within a period of one month, against the implicit negative decision which is presumed to result from such failure to act.



## ARTICLE 36

Prior to imposing a pecuniary sanction or fixing a daily penalty payment provided for in the present Treaty, the High Authority shall give the interested enterprise an opportunity to present its views.

An appeal to the general jurisdiction of the Court may be taken from the pecuniary sanctions and daily penalty payments imposed under the provisions of of the present Treaty.

In support of such an appeal, and under the terms of the first paragraph of Article 33 of the present Treaty, the petitioners may contest the regularity of the decisions and recommendations which they are charged with violating.

## ARTICLE 37

If a member State shall deem that in a given case an action of the High Authority, or a failure by it to act, is of such a nature as to provoke fundamental and persistent disturbances in the economy of such State, it may bring the matter to the attention of the High Authority.

The latter, after having obtained the opinion of the Council, will recognize the existence of such situation, if any, and decide on the measures to be taken, under the terms of the present Treaty, to correct such situation while at the same time safeguarding the essential interests of the Community.

When an appeal is taken to the Court under the provisions of the present Article against such decision or against the explicit or implicit decision refusing to recognize the existence of the situation mentioned above, the Court shall review the sufficiency of the grounds of such decision.

In case of annulment, the High Authority shall decide, within the framework of the Court's judgment, the measures to be taken to fulfill the objectives set forth in the second paragraph of the present article.

## ARTICLE 38

On the petition of a member State or of the High Authority, the Court may annul the acts of the Assembly or of the Council.

The petition must be submitted within one month from the publication of such act of the Assembly or of the notification of such act of the Council to the member States or to the High Authority.

Such an appeal may be based only on the grounds of lack of legal competence or substantial procedural violations.

## ARTICLE 39

Appeals to the Court shall not have the effect of suspending the execution of a decision or a recommendation.

However, if in its judgment circumstances demand, the Court may order the suspension of the execution of the decision or recommendation in question.

It may prescribe any other necessary provisional measures.

## ARTICLE 40

Subject to the provisions of the first paragraph of Article 34, the Court shall have jurisdiction to assess damages against the Community, at the request of the injured party, in cases where injury



results from a fault involved in an official act of the Community in execution of the present Treaty.

It shall also have jurisdiction to assess damages against any official or employee of the Community, in cases where injury results from a personal fault of such official or employee in the performance of his duties. If the injured party is unable to recover such damages from such official or employee, the Court may assess an equitable indemnity against the Community.

All other litigation between the Community and third parties, other than that relating to the application of the provisions of the present Treaty and implementing regulations, shall be brought before the national tribunals.

#### ARTICLE 41

When the validity of acts of the High Authority or the Council is contested in litigation before a national tribunal, such issue shall be certified to the Court, which shall have exclusive jurisdiction to rule thereon.

#### ARTICLE 42

The Court shall have such jurisdiction as may be provided by any clause to such effect in a public or private contract to which the Community is a party or which is undertaken for its account.

#### ARTICLE 43

The Court shall have jurisdiction in any other case provided for in a supplementary provision of the Treaty.

It may also exercise jurisdiction in any case relating to the objects of the present Treaty, where the laws of a member State grant such jurisdiction to it.

#### ARTICLE 44

The judgment of the Court shall be executory on the territory of the member States under the terms of Article 92 below.

#### ARTICLE 45

The Code of the Court shall be contained in a Protocol annexed to the present Treaty.

### TITLE THREE—ECONOMIC AND SOCIAL PROVISIONS

#### *Chapter I—General Provisions*

#### ARTICLE 46

The High Authority may at any time consult the governments, the various interested parties (enterprises, workers, consumers and dealers) and their associations, as well as any experts.

Enterprises, workers, consumers and dealers, and their associations, may present any suggestion or observations to the High Authority on questions which concern them.



In order to provide guidance for the action of all of the interested parties in the achievement of the purposes assigned to the Community, and to determine its own action within the framework of the present Treaty, the High Authority shall, by means of the consultations mentioned above:

(1) carry on a permanent study of markets and price tendencies;

(2) periodically draw up non-compulsory program forecasts dealing with production, consumption, exports and imports;

(3) periodically work out general programs with respect to modernization, the long-term orientation of manufacturing and the expansion of productive capacity;

(4) at the request of the interested governments, participate in the study of the possibilities of reemployment, either in existing industries or through the creation of new activities, of workers set at liberty by the evolution of the market or by technical transformations;

(5) gather all information necessary to the appraisal of the possibilities of improving the living and working conditions of the labor force in the industries under its jurisdiction, and of the risks which menace such living conditions.

It shall publish the general objectives and programs after having submitted them to the Consultative Committee.

It may make public the studies and information mentioned above.

#### ARTICLE 47

The High Authority may gather such information as may be necessary to the accomplishment of its mission. It may have the necessary verifications carried out.

The High Authority shall not divulge information which by its nature is considered a professional secret, and in particular information pertaining to the commercial relations or the breakdown of the costs of production of enterprises. With this reservation, it shall publish such data as may be useful to governments or to any other interested parties.

The High Authority may impose fines and daily penalty payments upon those enterprises which evade their obligations resulting from decisions made in application of the provisions of the present article, or which knowingly furnish false information. The maximum amount of such fines shall be one percent of the annual turnover and the maximum amount of such penalty payments shall be five percent of the average daily turnover for each day the violation continues.

Any violation by the High Authority of professional secrecy which has caused damage to an enterprise may be the subject of a suit for damages before the Court under the conditions provided for in Article 40.

#### ARTICLE 48

The right of enterprises to form associations is not affected by the present Treaty. Membership in such associations must be voluntary. The associations may engage in any activity which is not contrary to the provisions of the present Treaty or to the decisions or recommendations of the High Authority.



In cases where the present Treaty requires the consultation of the Consultative Committee, any association has the right to submit to the High Authority, within the time limits fixed by the latter, the observations of its members on the action envisaged.

The High Authority will normally call upon producers' associations to obtain information which it requires or to facilitate the fulfillment of its tasks, provided that the associations in question either permit the qualified representatives of the workers and consumers to participate in the leadership of these associations or in consultative committees affiliated to them, or in any other way give a satisfactory place in their organization to the expression of the workers' and consumers' interests.

The associations referred to in the preceding paragraph shall be obliged to furnish the High Authority with such information on their activity as the High Authority may deem necessary. The observations mentioned in the second paragraph of the present article and the information furnished under the fourth paragraph shall also be forwarded by the associations to the government concerned.

## *Chapter II—Financial Provisions*

### ARTICLE 49

The High Authority is empowered to procure the funds necessary to the accomplishment of its mission:

- by placing levies on the production of coal and steel;
- by borrowing.

It may also receive grants.

### ARTICLE 50

1. The levies are intended to cover:

- the administrative expenses provided for in Article 78;
- the non-reimbursable assistance provided for in Article 56, concerning readaptation;
- as concerns the financial facilities provided for in Articles 54 and 56, and after recourse to the reserve fund, any portion of the servicing charges on the High Authority's obligations which cannot be covered by receipts from the servicing of loans granted by the High Authority, as well as payments which might be required by virtue of the operation of the Authority's guarantee on loans obtained directly by the enterprises;
- expenditures to encourage technical and economic research as provided for in section 2 of Article 55.

2. The levies are assessed annually on the various products according to their average value; the rate of levy may not exceed one percent unless previously authorized by a two-thirds majority of the Council. The method of assessment and collection shall be fixed by a general decision of the High Authority taken after consulting the Council; to the extent possible, cumulative taxation shall be avoided.

3. The High Authority may impose increases of not more than 5 percent per quarter-year of delay in payment upon enterprises which do not obey the decisions which it may issue in application of the present article.



## ARTICLE 51

1. The funds obtained by borrowing may be used by the High Authority only to grant loans.

The issuance of the obligations of the High Authority on the markets of member States shall be subject to the regulations in effect on these markets.

In case the High Authority shall deem the guarantee of member governments necessary in order to contract loans, it shall approach the interested government or governments after consulting the Council. No government shall be required to give its guarantee.

2. In accordance with the terms of Article 54, the High Authority may guarantee loans granted directly to enterprises by third parties.

3. The High Authority may adjust its terms for loans or guarantees in order to build up a reserve fund, for the sole purpose of reducing the size of the levy provided for in the third sub-paragraph of section 1 of Article 50; the sums thus accumulated may not be used in any manner to grant loans to enterprises.

4. The High Authority itself shall not perform the operations of a banking nature which may be required to carry out its financial missions.

## ARTICLE 52

The member States shall take all necessary measures to assure the free transfer within the territories mentioned in the first paragraph of Article 79, and through the channels employed for commercial payments, of funds derived from levies, from pecuniary sanctions of all kinds, and from the reserve fund, to the extent necessary to their use for the purposes set forth in the present Treaty.

The methods of transfer among member States, as well as to third countries, of funds resulting from the other financial operations effected by the High Authority or under its guarantee shall be the subject of agreements concluded by the High Authority with the interested governments or the competent bodies; no member State which applies exchange controls shall be obliged to assure any such transfers to which it has not explicitly agreed.

## ARTICLE 53

Without prejudice to the provisions of Article 58 and of Chapter V of Title Three, the High Authority may:

(a) after consulting the Consultative Committee and the Council, authorize the institution, under conditions which it shall determine and under its control, of any financial mechanisms common to several enterprises which are deemed necessary for the accomplishment of the missions defined in Article 3 and compatible with the provisions of the present Treaty and particularly of Article 65;

(b) with the concurrence of the Council acting by unanimous vote, institute itself any financial mechanism satisfying the same purposes as referred to above.

Mechanisms of the same nature instituted or maintained by the member States shall be reported to the High Authority which, after



consulting the Consultative Committee and the Council, shall address to the interested States the necessary recommendations, in case such mechanisms should be wholly or partly contrary to the application of the present Treaty.

*Chapter III—Investments and Financial Assistance*

ARTICLE 54

The High Authority may facilitate the carrying out of investment programs by granting loans to enterprises or by giving its guarantee to loans which they may obtain elsewhere.

With the concurrence of the Council acting by unanimous vote, the High Authority may assist by the same means in financing works and installations which contribute directly and principally to increase production, lower production costs or facilitate marketing of products subject to its jurisdiction.

In order to encourage a coordinated development of investments, the High Authority may, in accordance with the provisions of Article 47, require enterprises to submit individual programs in advance, either by a special demand addressed to the enterprise concerned or by a decision defining the nature and the size of the programs which must be submitted.

Within the framework of the general programs described in Article 46, the High Authority may, after having given the interested parties an opportunity to present their views, issue an opinion on such programs, accompanied by a justification. It is obliged to issue such an opinion when so requested by an enterprise. The High Authority shall notify the enterprise of its opinion and shall bring it to the attention of the government concerned. The list of opinions shall be made public.

If the High Authority finds that the financing of a program or the operation of the installations which it entails would require subsidies, assistance, protection or discrimination contrary to the present Treaty, the unfavorable opinion taken by virtue of this justification shall have the force of a decision as defined in Article 14, and shall have the effect of prohibiting the enterprise concerned from resort to resources other than its own funds to put such program into effect.

The High Authority may impose fines not exceeding the sums unduly devoted to realization of the program in question on enterprises which violate the provisions of the above paragraph.

ARTICLE 55

1. The High Authority shall encourage technical and economic research concerning the production and the development of consumption of coal and steel, as well as labor safety in these industries. To this end, it shall establish all appropriate contacts among existing research organizations.

2. After consultation with the Consultative Committee, the High Authority may initiate and facilitate the development of such research work:

(a) by encouraging joint financing by the interested enterprises; or



(b) by earmarking for that purpose any grants it may receive; or

(c) with the concurrence of the Council by earmarking for that purpose funds derived from the levies provided for in Article 50, without, however, going beyond the ceiling defined in section 2 of that article.

The results of the research financed under the conditions set forth in subparagraphs (b) and (c) above shall be placed at the disposal of all interested parties in the Community.

3. The High Authority shall make all useful suggestions for the dissemination of technical improvements, particularly with regard to the exchange of patents and the granting of licenses.

#### ARTICLE 56

If the introduction of technical processes or new equipment within the framework of the general programs of the High Authority, should lead to an exceptional reduction in labor requirements in the coal or steel industries, creating special difficulties in one or more areas for the re-employment of the workers released, the High Authority, on the request of the interested governments:

(a) will consult the Consultative Committee;

(b) may facilitate, in accordance with the methods provided for in Article 54, the financing of such programs as it may approve for the creation, either in the industries subject to its jurisdiction or, with the concurrence of the Council, in any other industry, of new and economically sound activities capable of assuring productive employment to the workers thus released;

(c) will grant non-reimbursable assistance to contribute to:

the payment of indemnities to tide the workers over until they can obtain new employment;

the granting of allowances to the workers for reinstallation expenses;

the financing of technical retraining for workers who are led to change their employment.

The High Authority shall condition the granting of non-reimbursable assistance on the payment by the interested State of a special contribution at least equal to such assistance, unless a two-thirds majority of the Council authorizes an exception to this rule.

### *Chapter IV—Production*

#### ARTICLE 57

In the field of production, the High Authority shall give preference to the indirect means of action at its disposal, such as:

cooperation with governments to regularize or influence general consumption, particularly that of the public services;

intervention on prices and commercial policy as provided for in the present Treaty.

#### ARTICLE 58

1. In case of a decline in demand, if the High Authority deems that the Community is faced with a period of manifest crisis and that the means of action provided for in Article 57 are not sufficient to cope



with that situation, it shall, after consulting the Consultative Committee and with the concurrence of the Council, establish a system of production quotas, accompanied, to the extent necessary, by the measures provided for in Article 74.

If the High Authority fails to act, one of the member States may bring the matter to the attention of the Council which, acting by unanimous vote, may require the High Authority to establish a system of quotas.

2. The High Authority, after consultation with the enterprises and their associations, shall establish quotas on an equitable basis in accordance with the principles defined in Articles 2, 3 and 4. The High Authority may in particular regulate the rate of operation of the enterprises by appropriate levies on tonnages exceeding a reference level defined by a general decision.

The sums thus obtained will be earmarked for the support of those enterprises whose production rate has dropped below the level envisaged, particularly in order to ensure as far as possible the maintenance of employment in those enterprises.

3. The system of quotas shall be terminated automatically upon a proposal to the Council by the High Authority after consulting the Consultative Committee, or by the government of one of the member States, except in the case of a contrary decision of the Council; such decision must be taken by unanimous vote, if the proposal originates with the High Authority, or by simple majority if the proposal originates with a government. The termination of the quota system shall be published by the High Authority.

4. The High Authority may impose upon enterprises violating the decisions taken by it in application of the present article, fines not to exceed a sum equal to the value of the irregular production.

#### ARTICLE 59

1. If, after consulting the Consultative Committee, the High Authority finds that the Community is faced with a serious shortage of certain or all of the products subject to its jurisdiction, and that the means of action provided for in Article 57 do not enable it to cope with the situation, it shall bring this situation to the attention of the Council, and, unless the Council decides otherwise by unanimous vote, shall propose the necessary measures.

If the High Authority fails to take any initiative, one of the member States may bring the matter before the Council, which by unanimous decision may recognize the existence of the situation mentioned above.

2. Acting by unanimous vote, on the basis of proposals by and in consultation with the High Authority, the Council shall establish consumption priorities and determine the allocation of the coal and steel resources of the Community among the industries subject to its jurisdiction, exports, and other consumption.

On the basis of the consumption priorities thus determined, the High Authority shall, after consulting the enterprises concerned, establish manufacturing programs which the enterprises shall be required to execute.

3. If the Council fails to reach a unanimous decision on the measures referred to in Section 2, the High Authority will itself proceed to allocate the resources of the Community among the member States



on the basis of consumption and exports and independently of the location of production.

The allocation of the resources assigned by the High Authority shall be carried out within each of the member States under the responsibility of the government of that State, which shall consult with the High Authority concerning the portion of such resources to be assigned to export and to the operation of the coal and steel industries.

If the quantities actually exported by a member State are less than the scheduled quantities which were included in the basis for total allocations to the State in question, the High Authority will to the extent necessary redistribute among the member States the additional availabilities for consumption thus created, whenever a new allocation is made.

If a relative reduction in the quantities directed by a government to the coal and steel industries leads to a reduction in production of one of these products in the Community, the allocation of that product to the member State in question at the time of a new allocation shall be reduced to the same extent as the reduction in production for which it is responsible.

4. In all cases, the High Authority, acting on the basis of studies undertaken in consultation with the enterprises and their associations, shall be responsible for allocating equitably among enterprises the quantities earmarked for the industries under its jurisdiction.

5. In the situation described in Section 1 of the present article, the High Authority may, after consulting the Consultative Committee and with the concurrence of the Council, decide on the establishment in all member States of restrictions on exports to third countries in conformity with the provisions of Article 57; in the absence of any initiative on the part of the High Authority, the Council may take such a decision by unanimous vote upon the proposal of a government.

6. The High Authority may terminate the system set up in conformity with the present Article after consultation with the Consultative Committee and the Council. It may not override a unanimous vote of the Council opposing such termination.

If the High Authority fails to take any initiative, the Council may, by unanimous vote, terminate the system of allocation.

7. The High Authority may impose upon enterprises which violate the decisions taken in application of the present article, fines not to exceed in amount twice the value of the manufactures or deliveries prescribed and not executed or diverted from their proper use.

### *Chapter V—Prices*

#### ARTICLE 60

1. Pricing practices contrary to the provisions of Articles 2, 3 and 4 are prohibited, particularly:

unfair competitive practices, in particular purely temporary or purely local price reductions whose purpose is to acquire a monopoly position within the common market;

discriminatory practices involving the application by a seller within the single market of unequal conditions to comparable transactions, especially according to the nationality of the buyer.



After consultation with the Consultative Committee and the Council, the High Authority may define the practices covered by this prohibition.

2. For the above purposes:

(a) the prices scales and conditions of sales to be applied by enterprises within the single market shall be made public to the extent and in the form prescribed by the High Authority after consultation with the Consultative Committee; if the High Authority deems that an enterprise has chosen an abnormal base point for its price quotations, in particular one which makes it possible to evade the provisions of subparagraph (b) below, it will make the appropriate recommendations to that enterprise.

(b) the prices charged by an enterprise within the common market, calculated on the base of the point chosen for the enterprise's price scale must not as a result of the methods of quotation:

be higher than the price indicated by the price scale in question for a comparable transaction; or

be less than this price by a margin greater than:

either the margin which would make it possible to align the offer in question on that price scale, set up on the basis of another point, which procures for the buyer the lowest price at the place of delivery;

or a limit fixed by the High Authority for each category of products, after consultation with the Consultative Committee, taking into account the origin and destination of such products.

These decisions shall be taken when they appear necessary to avoid disturbances in all or any part of the common market, or disequilibria which would result from a divergence between the methods of price quotation used for a product and for the materials which enter into its manufacture.

These decisions shall not prevent enterprises from aligning their quotations on the prices offered by enterprises outside the Community, provided that such transactions are reported to the High Authority; the latter may, in case of abuse, limit or eliminate the right of the enterprises in question to benefit from this exception.

#### ARTICLE 61

On the basis of studies undertaken in cooperation with the enterprises and their associations in accordance with the provisions of the first paragraph of Article 46 and the third paragraph of Article 48, and after consultation with the Consultative Committee and the Council as to the advisability of these measures as well as concerning the price level which they determine, the High Authority may fix for one or more products subject to its jurisdiction:

(a) maximum prices within the common market, if it deems that such a decision is necessary to attain the objectives defined in Article 3 and particularly in paragraph (c) thereof;

(b) minimum prices within the common market, if it deems that a manifest crisis exists or is imminent and that such a decision is necessary to attain the objectives defined in Article 3;



(*c*) after consultation with the enterprises concerned or their associations, and according to methods adapted to the nature of the export markets, minimum or maximum export prices, if such action can be effectively supervised and appears necessary either because of dangers to the enterprises on account of the situation of the market or to pursue in international economic relations the objective, defined in Article 3, paragraph (*f*), without prejudice, in the case of minimum prices, to the application of the measures provided for in the last paragraph of section 2 of Article 60.

In price fixing limits the High Authority shall take into account the need to assure the ability to compete both of the coal and steel industries and of the consuming industries, in accordance with the principles defined in Article 3, paragraph (*c*).

If the High Authority should fail to act under the circumstances described above, the government of one of the member States may refer the matter to the Council; the latter may, by unanimous decision, invite the High Authority to fix such maximum or minimum prices.

#### ARTICLE 62

If the High Authority should deem that such an action would be the most appropriate one in order to prevent the price of coal from being established at the level of the production costs of the most costly mine whose production is temporarily required to assure accomplishment of the missions defined in Article 3, the High Authority may, after consulting the Consultative Committee, authorize compensations:

among enterprises of the same basin to which the same price scales are applicable;

after consulting the Council, among enterprises situated in different basins.

Such compensations may, in addition, be undertaken under the terms of Article 53.

#### ARTICLE 63

1. If the High Authority finds that discrimination is being systematically practised by buyers, particularly as concerns orders placed by government subsidiaries, it shall make the necessary recommendations to the governments concerned.

2. To the extent that it finds necessary, the High Authority may decide that:

(*a*) enterprises shall establish their conditions of sale in such a way that their customers or their agents shall be obliged to conform to the rules established by the High Authority in application of the provisions of this Chapter;

(*b*) enterprises shall be made responsible for infractions committed by their direct agents or by dealers acting on behalf such enterprises.

In case of a violation committed by a buyer against the obligations so contracted, the High Authority may limit the right of the enterprises of the Community to deal with the said buyer, to a degree which may entail temporary deprivation of access to the market in case of repeated infractions. In this case, and without prejudice to the provisions of Article 33, the buyer may appeal to the Court.



3. In addition, the High Authority is empowered to address to the member States such recommendations as may be necessary to ensure that any enterprise or organization engaged in distribution of coal or steel shall respect the rules established in application of Section 1 of Article 60.

## ARTICLE 64

The High Authority may impose upon enterprises which violate the provisions of the present Chapter or the decisions taken in application thereof, fines not to exceed twice the value of the irregular sales. In case of second offense, the above maximum may be doubled.

*Chapter VI—Agreements and Concentrations*

## ARTICLE 65

1. There are hereby forbidden all agreements among enterprises, all decisions of associations of enterprises, and all concerted practices, which would tend, directly or indirectly, to prevent, restrict or impede the normal operation of competition within the common market, and in particular:

- (a) to fix or influence prices;
- (b) to restrict or control production, technical development or investments;
- (c) to allocate markets, products, customers or sources of supply.

2. However, the High Authority will authorize enterprises to agree among themselves to specialize in the production of, or to engage in joint buying or selling of specified products, if the High Authority finds:

- (a) that such specialization or such joint buying or selling will contribute to a substantial improvement in the production or marketing of the products in question; and
- (b) that the agreement in question is essential to achieve such effects, and does not impose any restriction not necessary for that purpose; and
- (c) that it is not susceptible of giving the interested enterprises the power to influence prices, or to control or limit production or marketing of an appreciable part of the products in question within the common market, or of protecting them from effective competition by other enterprises within the common market.

If the High Authority should recognize that certain agreements are strictly analogous in their nature and effects to the agreements mentioned above, taking into account the application of the present section to distributing enterprises, it will authorize such agreements if it further recognizes that they satisfy the same conditions.

An authorization may be made subject to specified conditions and may be limited in time. If so limited, the High Authority will renew it once or several times if it finds that at the time of renewal the conditions stated in paragraph (a) to (c) above are still fulfilled.

The High Authority will revoke or modify the authorization if it finds that as a result of changes in circumstances the agreement no longer fulfills the conditions set forth above, or that the actual effects



of the agreement or of the operations under it are contrary to the conditions required for its approval.

The decisions granting, modifying, refusing or revoking an authorization shall be published along with their justification; the limitations contained in the second paragraph of Article 47 shall not be applicable to such publication.

3. The High Authority may obtain, in accordance with the provisions of Article 47, any information necessary to the application of the present article, either by a special request addressed to the interested parties or by a regulation defining the nature of the agreements, decisions or practices which must be communicated to it.

4. Any agreement or decision which is prohibited by virtue of Section 1 of the present article shall be automatically void and may not be invoked before any court or tribunal of the member States.

The High Authority has exclusive competence, subject to appeals to the Court, to rule on the conformity of such agreements or decisions with the provisions of the present article.

5. The High Authority may pronounce against enterprises:

which have concluded an agreement which is automatically void;

which have complied with, enforced or attempted to enforce by arbitration, forfeiture, boycott or any other means, an agreement or decision which is automatically void or an agreement for which approval has been refused or revoked;

which shall have obtained an authorization by means of knowingly false or misleading information; or

which engage in practices contrary to the provisions of Section 1,

fining and daily penalty payments not to exceed double the turnover actually realized on the products which have been the subject of the agreement, decision or practice contrary to the provisions of the present article; if the object of the agreement is to restrict production, technical development or investments, this maximum may be raised to 10 per cent of the annual turnover of the enterprises in question, in the case of fines, and 20 per cent of the daily turnover in the case of daily penalty payments.

#### ARTICLE 66

1. Except as provided in paragraph 3 below, any transaction which would have in itself the direct or indirect effect of bringing about a concentration, within the territories mentioned in the first paragraph of Article 79, involving enterprises at least one of which falls under the application of Article 80, shall be submitted to a prior authorization of the High Authority. This obligation shall be effective whether the operation in question is carried out by a person or an enterprise, or a group of persons or enterprises, whether it concerns a single product or different products, whether it is effected by merger, acquisition of shares or assets, loan, contract, or any other means of control. For the application of the above provisions, the High Authority will define by a regulation, established after consultation with the Council, what constitutes control of an enterprise.

2. The High Authority will grant the authorization referred to in the preceding paragraph if it finds that the transaction in question



will not give to the interested persons or enterprises, as concerns those of the products in question which are subject to its jurisdiction, the power:

to influence prices, to control or restrain production or marketing, or to impair the maintenance of effective competition in a substantial part of the market for such products; or

to evade the rules of competition resulting from the application of the present Treaty, particularly by establishing an artificially privileged position involving a material advantage in access to supplies or markets.

In this appreciation, and in accordance with the principle of non-discrimination set forth in sub-paragraph (b) of Article 4, the High Authority will take account of the size of enterprises of the same nature existing in the Community, to the extent it deems justified to avoid or correct the disadvantages resulting from an inequality in the conditions of competition.

The High Authority may subject such an authorization to any conditions which it deems appropriate for the purposes of the present section.

Before taking action on a transaction concerning enterprises of which at least one is not subject to the application of Article 80, the High Authority will request the observations of the interested government.

3. The High Authority will exempt from the requirement of prior authorization those classes of transactions which, by the size of the assets or enterprises which they affect taken together with the nature of the concentration they bring about, must in its opinion be held to conform to the conditions required by Section 2. The regulation established for this purpose with the concurrence of the Council will also fix the conditions to which such exemption is to be subject.

4. Without limiting the applicability of the provisions of Article 47 to enterprises subject to its jurisdiction, the High Authority may obtain from physical or juridical persons who have acquired or regrouped or might acquire or regroup the rights or assets in question, any information necessary to the application of the present article concerning operations which might produce the effect mentioned in Section 1; it may do this either by a regulation established after consultation with the Council which defines the nature of the operations which must be communicated to it, or by a special demand addressed to the interested parties within the framework of such regulation.

5. If a concentration should occur, which the High Authority finds has been effected contrary to the provisions of Section 1 but which it finds nevertheless satisfies the conditions provided in Section 2, it will subject the approval of this concentration to the payment, by the persons who have acquired or regrouped the rights or assets in question, of the fine provided in the second sub-paragraph of Section 6; such payment shall not be less than half of the maximum provided in the said sub-paragraph in any case where it is clear that the authorization should have been requested. In the absence of this payment, the High Authority will apply the measures provided hereafter for concentrations found to be illegal.

If a concentration should occur which the High Authority recognizes cannot satisfy the general or special conditions to which an authorization under Section 2 would be subject, it will establish the



illegal character of this concentration by a decision accompanied by a justification; after having allowed the interested parties to present their observations, the High Authority shall order the separation of the enterprises or assets wrongly concentrated or the cessation of common control, as well as any other action which it deems appropriate to re-establish the independent operation of the enterprises or assets in question and to restore normal conditions of competition. Any person directly interested may take an appeal against such decisions under the conditions provided in Article 33. Notwithstanding the provisions of that article, the Court shall be fully competent to judge whether the operation effected is a concentration within the meaning of Section 1 of the present article and of the regulations issued in application of that section. This appeal shall be suspensive. It may not be taken until the measures provided above have been ordered, unless the High Authority should agree to the taking of a separate appeal against the decision declaring the transaction illegal.

The High Authority may at any time, subject to the possible application of the provisions of the third paragraph of Article 39, take or cause to be taken such measures as it may deem necessary to safeguard the interests of competing enterprises and of third parties, and to prevent any action which might impede the execution of its decisions. Unless the Court decides otherwise, appeals shall not suspend the application of such precautionary measures.

The High Authority will grant to the interested parties a reasonable period in which to execute its decisions, at the expiration of which it may begin to impose daily penalty payments not to exceed one tenth of one percent of the value of the rights or assets in question.

Furthermore, if the interested parties fail to fulfill their obligations, the High Authority shall itself take measures of execution and in particular may: suspend the exercise, in enterprises subject to its jurisdiction, of the rights attached to the assets illegally acquired; bring about the designation by judicial authorities of a receiver-administrator for these assets; organize the forced sale of such assets in conditions preserving the legitimate interests of their proprietors; annul, with respect to physical or juridical persons who have acquired the rights or assets in question by the effect of illegal transaction, the acts, decisions, resolutions, or deliberations of the directing organs of enterprises subject to a control which has been irregularly established.

The High Authority is also empowered to address to the interested member States the recommendations necessary to obtain, within the framework of national legislation, the execution of the measures provided for in the preceding paragraphs.

In the exercise of its powers, the High Authority shall take account of the rights of third persons which have been acquired in good faith.

6. The High Authority may impose fines not to exceed:

3 percent of the value of the assets acquired or regrouped or to be acquired or regrouped, against physical or juridical persons who shall have violated the obligations provided for in Section 4;

10 percent of the value of the assets acquired or regrouped, against physical or juridical persons which shall have violated the obligation provided for in Section 1; after the end of the twelfth month following the transaction, this maximum shall be raised by one-twenty-fourth per month which elapses until the High Authority establishes the existence of the violation;



10 percent of the value of the assets acquired or regrouped or to be acquired or regrouped, against physical or juridical persons which shall have obtained or attempted to obtain the benefit of the provisions of Section 2 by means of false or misleading information;

15 percent of the value of the assets acquired or regrouped, against enterprises subject to its jurisdiction which shall have participated in or lent themselves to the realization of transactions contrary to the provisions of the present article.

Persons who are the object of sanctions provided for in the present paragraph may appeal before the Court under the conditions provided for in Article 36.

7. To the extent necessary, the High Authority is empowered to address to public or private enterprises which, in law or in fact, have or acquire on the market for one of the products subject to its jurisdiction a dominant position which protects them from effective competition in a substantial part of the common market, any recommendations required to prevent the use of such position for purposes contrary to those of the present Treaty. If such recommendations are not fulfilled satisfactorily within a reasonable period, the High Authority will, by decisions taken in consultation with the interested government and under the sanctions provided for in Articles 58, 59 and 64, fix the prices and conditions of sale to be applied by the enterprise in question, or establish manufacturing or delivery programs to be executed by it.

## *Chapter VII—Impairment of the Conditions of Competition*

### ARTICLE 67

1. Any action of a member State which might have noticeable repercussions on the conditions of competition in the coal and steel industries shall be brought to the attention of the High Authority by the interested government.

2. If such an action is liable to provoke a serious disequilibrium by increasing the differentials in costs of production otherwise than through variations in productivity, the High Authority, after consulting the Consultative Committee and the Council, may take the following measures:

If the action of that State produces harmful effects for coal or steel enterprises coming under the jurisdiction of the State in question, the High Authority may authorize that State to grant to such enterprises assistance, the amount, conditions and duration of which shall be determined in agreement with the High Authority. The same provisions shall be applicable in case of a variation in wages and in working conditions which would have the same effects, even if such variation is not the result of a governmental act.

If the action of that State produces harmful effects for coal or steel enterprises subject to the jurisdiction of other member States, the High Authority may address a recommendation to the State in question with a view to remedying such effects by such measures as that State may deem most compatible with its own economic equilibrium.

3. If the action of the State in question reduces differentials in costs of production by granting a special advantage to, or by imposing special burdens on, coal or steel enterprises coming under its jurisdiction



in comparison with the other industries in the same country, the High Authority is empowered to address the necessary recommendations to the State in question, after consulting the Consultative Committee and the Council.

### *Chapter VIII—Wages and Movement of Labor*

#### ARTICLE 68

1. The methods of fixing wages and social benefits in force in the various member States shall not be affected, as regards the coal and steel industries, by the application of the present Treaty, subject to the following provisions.

2. If the High Authority notes that abnormally low prices practised by one or several enterprises are the result of wages fixed by these enterprises at an abnormally low level in comparison with the actual wage level in the same region, it shall make the necessary recommendations to the interested enterprises after consulting the Consultative Committee. If the abnormally low wages are the result of governmental decisions, the High Authority shall enter into consultation with the interested government; in the absence of agreement and after consulting the Consultative Committee; it may issue a recommendation to the government concerned.

3. If the High Authority finds that a lowering of wages is leading to a drop in the standard of living of the labor force and at the same time is being used as a means of permanent economic adjustment by enterprises or as a weapon of competition among enterprises, it shall address to the enterprise or government concerned, after consulting the Consultative Committee, a recommendation intended to assure the labor force of compensatory benefits to be paid for by the enterprise in question.

This provision shall not apply to:

(a) overall measures taken by a member State to re-establish its external equilibrium, without prejudice in this latter case to the possible application of the provisions of Article 67;

(b) wage decreases resulting from the application of the sliding scale legally or contractually established;

(c) wage decreases brought about by a decrease in the cost of living;

(d) wage decreases to correct abnormal increases previously granted under exceptional circumstances no longer in existence.

4. With the exception of the cases provided for in paragraphs (a) and (b) of the above section, any wage decrease affecting the whole labor force of an enterprise or a sizeable fraction thereof shall be reported to the High Authority.

5. The recommendations provided for in the above sections may be made by the High Authority only after consultation with the Council; such consultation shall not be necessary, however, in the case of recommendations addressed to enterprises smaller than a minimum size to be defined by the High Authority in agreement with the Council.

If, in one of the member States, a modification of the provisions relative to the financing of social security or of the measures for combatting unemployment and the effects thereof, or a variation in wages, produces the effects referred to in Article 67, Sections 2 and 3, the High Authority shall be empowered to apply the provisions of Article 67.



6. If an enterprise should fail to conform to a recommendation made to it by virtue of the present article, the High Authority may impose on it fines and daily penalty payments not to exceed twice the amount of the savings in labor costs unjustifiably effected.

#### ARTICLE 69

1. The member States bind themselves to renounce any restriction based on nationality against the employment in the coal and steel industries of workers of proven qualifications for such industries who possess the nationality of one of the member States; this commitment shall be subject to the limitations imposed by the fundamental needs of health and public order.

2. In order to apply these provisions, the member States will work out a common definition of specialties and conditions of qualification, and will determine by common agreement the limitations provided for in the preceding paragraph. They will also work out technical procedures to make it possible to bring together offers of and demands for employment in the Community as a whole.

3. In addition, for the categories of workers not falling within the provisions of the preceding paragraph and where an expansion of production in the coal and steel industries might be hampered by a shortage of qualified labor, they will adapt their immigration regulations to the extent necessary to eliminate that situation; in particular, they will facilitate the reemployment of workers from the coal and steel industries of other member States.

4. They will prohibit any discrimination in remuneration and working conditions between national workers and immigrant workers, without prejudice to special measures concerning frontier workers; in particular, they will work out among themselves any arrangements necessary so that social security measures do not stand in the way of the movement of labor.

5. The High Authority shall guide and facilitate the application by the member States of the measures taken by virtue of the present article.

6. The present article shall not interfere with the international obligations of the member States.

### *Chapter IX—Transport*

#### ARTICLE 70

It is recognized that the establishment of the common market requires the application of such transport rates for coal and steel as will make possible comparable price conditions to consumers in comparable positions.

For traffic among the member States, discriminations in transport rates and conditions of any kind, based on the country of origin or of destination of the products in question, are particularly forbidden. The suppression of these discriminations involves in particular the obligation to apply to the transport of coal and steel, originating in or destined for another country of the Community, the rate scales, prices and tariff provisions of all types applicable to internal transport of the same merchandise over the same route.



The rate scales, prices, and tariff provisions of all sorts applied to the transport of coal and steel within each member State and among the member States shall be published or brought to the knowledge of the High Authority.

The application of special internal tariff measures in the interest of one or several coal- or steel-producing enterprises is subject to the prior agreement of the High Authority, which will assure itself that such measures conform to the principles of the present Treaty; it may give a temporary or conditional agreement.

Subject to the provisions of the present article, as well as to the other provisions of the present Treaty, commercial policy for transport, particularly the establishment and modification of rates and conditions of transport of any type as well as the arrangement of transport costs required to assure the financial equilibrium of the transport enterprises themselves, remains subject to the legislative or regulatory provisions of each of the member States; the same is true for the measures of coordination or competition among different means of transport or among different routes.

### *Chapter X—Commercial Policy*

#### ARTICLE 71

Unless otherwise stipulated in the present Treaty, the competence of the governments of the member States with respect to commercial policy shall not be affected by application of the present Treaty.

The powers granted to the Community by the present Treaty concerning commercial policy towards third countries shall not exceed the powers which the member States are free to exercise under the international agreements to which they are parties, subject to the application of the provisions of Article 75.

The governments of the member States will lend each other the necessary assistance in the application of measures recognized by the High Authority as in conformity with the present Treaty and with international agreements in effect. The High Authority may propose to the member States concerned the methods by which this mutual assistance shall be undertaken.

#### ARTICLE 72

Minimum rates, below which the member States are bound not to lower their customs duties on coal and steel with regard to third countries, and maximum rates, above which they are bound not to raise such duties, may be fixed by unanimous decision of the Council upon the proposal of the High Authority, which may act on its own initiative or at the request of a member State.

Between the limits fixed by the said decision, each government will set its tariffs according to its national procedure. The High Authority may, on its own initiative or at the request of one of the member States, issue an opinion suggesting the modification of the tariffs of such participating country.

#### ARTICLE 73

The administration of import and export licensing in relations with third countries shall be the responsibility of the government on the



territory of which is located the point of origin for exports or the point of destination for imports.

The High Authority is empowered to supervise the administration and control of such licensing where coal and steel are concerned. After consulting the Council, it will address recommendations to the member States wherever necessary in order either to prevent the measures adopted from having a more restrictive character than is required by the situation justifying their establishment or maintenance, or to insure coordination of measures taken in compliance with the third paragraph of Article 71 and Article 74.

#### ARTICLE 74

In the cases enumerated below, the High Authority is empowered to take all measures in conformity with the present Treaty, in particular with the objectives defined in Article 3, and to make any recommendations to the governments which do not violate the provisions of the second paragraph of Article 71:

(1) if it is established that countries not members of the Community, or enterprises situated in such countries, are engaging in dumping operations or other practices condemned by the Havana Charter;

(2) if a difference between the offers made by enterprises outside the jurisdiction of the Community and those made by enterprises within its jurisdiction is due exclusively to the fact that those of the former are based on competitive conditions contrary to the provisions of the present Treaty;

(3) if one of the products enumerated in Article 81 of the present Treaty is imported into the territory of one or several of the member States of the Community in relatively increased quantities and under such conditions that these imports inflict or threaten to inflict serious damage on production, within the common market, of similar or directly competitive products.

However, recommendations for the establishment of quantitative restrictions may be issued: in the case cited in paragraph (2) above, only with the concurrence of the Council; and in the case cited in paragraph (3) above, only under the conditions set forth in Article 58.

#### ARTICLE 75

The member States bind themselves to keep the High Authority informed of proposed commercial agreements or arrangements to the extent that such agreements relate to coal, steel or the importation of other raw materials and of specialized equipment necessary to the production of coal and steel in the member States.

If a proposed agreement or arrangement should contain clauses interfering with the application of the present Treaty, the High Authority will address the necessary recommendations to the interested State within a period of ten days from the receipt of the communication made to it; it may in any other case issue opinions.



## TITLE FOUR—GENERAL PROVISIONS

## ARTICLE 76

Under the conditions set forth in an annexed Protocol, the Community shall enjoy on the territory of the member States the privileges and immunities necessary to the exercise of its functions.

## ARTICLE 77

The seat of the institutions of the Community shall be fixed by common agreement of the governments of the member States.

## ARTICLE 78

1. The fiscal year of the Community shall extend from July 1 to June 30.

2. The administrative expenditures of the Community include the expenditures of the High Authority, including those pertaining to the functioning of the Consultative Committee, and those of the Court, of the Secretariat of the Assembly and of the Secretariat of the Council.

3. Each one of the institutions of the Community shall draw up an estimate of its administrative expenditures, broken down into articles and chapters.

However, the number of employees and the scales of salaries, allowances and pensions, to the extent that they are not fixed by virtue of another provision of the Treaty or an implementing regulation, as well as extraordinary expenditures, shall be determined in advance by a Commission composed of the President of the Court, the President of the High Authority, the President of the Assembly and the President of the Council. The President of the Court shall preside over this Commission.

The Commission of Presidents provided for in the preceding paragraph shall group the estimates of expenditures in a general estimate which will include a special section for the expenditures of each institution.

The adoption of this general estimate shall have the effect of authorizing and obligating the High Authority to collect the corresponding receipts in accordance with the provisions of Article 49. The High Authority shall place the funds estimated as required for the functioning of each of the institutions at the disposal of the President of that institution, who may proceed or give instructions to proceed with the commitment or the settlement of expenditures.

The Commission of Presidents may authorize transfers within chapters and from one chapter to another.

4. The general estimate shall be included in the annual report presented by the High Authority to the Assembly under the provisions of Article 17.

5. If the operations of the High Authority or of the Court make it necessary, the respective President may present to the Commission of Presidents a supplementary estimate, subject to the same rules as the general estimate.

6. The Council shall appoint an Auditor to serve for three years. His term may be renewed. He shall exercise his functions in com-



plete independence. The Auditor may not hold any other post in any institution or agency of the Community.

The Auditor shall make an annual report on the regularity of the accounting operations and of the financial management of the various institutions. He shall make this report within six months following the end of the fiscal year to which the accounts pertain, and shall communicate it to the Commission of Presidents.

The High Authority shall transmit this report to the Assembly at the same time as the report provided for in Article 17 of the Treaty.

#### ARTICLE 79

The present Treaty is applicable to the European territories of the member States. It is also applicable to those European territories whose foreign relations are assumed by a member State; an exchange of letters between the government of the German Federal Republic and the government of the French Republic concerning the Saar is annexed to the present Treaty.

Each High Contracting Party binds itself to extend to the other member States the preferential measures which it enjoys with respect to coal and steel in the non-European territories subject to its jurisdiction.

#### ARTICLE 80

The term enterprise, as used in the present Treaty, refers to any enterprise engaged in production in the field of coal and steel within the territories mentioned in the first paragraph of Article 79; and in addition, as concerns Articles 65 and 66 as well as information required for their application and appeals based upon them, to any enterprise or organization regularly engaged in distribution other than sale to domestic consumers or to artisan industries.

#### ARTICLE 81

The terms "coal" and "steel" are defined in Annex I to the present Treaty.

Additions may be made to the lists set forth in this annex by unanimous decision of the Council.

#### ARTICLE 82

The turnover which shall serve as basis for the calculation of the fines and daily penalty payments applicable to enterprises by virtue of the present Treaty shall be the turnover on the products subject to the jurisdiction of the High Authority.

#### ARTICLE 83

The establishment of the Community does not in any way prejudice the regime of ownership of the enterprises subject to the provisions of the present Treaty.

#### ARTICLE 84

In the provisions of the present Treaty, the words "present Treaty" shall be understood as referring to the clauses of the said Treaty and its



annexes, of the annexed Protocols, and of the Convention containing the Transitional Provisions.

#### ARTICLE 85

The initial and transitional measures agreed upon by the High Contracting Parties with a view to permitting the application of the provisions of the present Treaty are set forth in an annexed Convention.

#### ARTICLE 86

The member States bind themselves to take all general and specific measures which will assure the execution of their obligations under the decisions and recommendations of the institutions of the Community, and facilitate the accomplishment of the Community's purposes.

The member States bind themselves to refrain from any measures which are incompatible with the existence of the common market referred to in Articles 1 and 4.

To the extent of their competence, the member States will take all appropriate measures to assure the international payments arising out of trade in coal and steel within the common market; they will lend assistance to each other to facilitate such payments.

Officials of the High Authority charged with verifying information shall enjoy on the territories of the member States, to the extent necessary for the accomplishment of their mission, such rights and powers as are granted by the laws of such States to officials of its own tax services. The missions and the status of the officials charged with them shall be duly communicated to the State in question. Officials of such State may, at the request of such State or of the High Authority, assist those of the High Authority in carrying out their mission.

#### ARTICLE 87

The High Contracting Parties agree not to avail themselves of any treaties, conventions or agreements existing among them to submit any difference arising out of the interpretation or application of the present Treaty to a method of settlement other than those provided for herein.

#### ARTICLE 88

If the High Authority deems that a State is delinquent with respect to one of the obligations incumbent upon it by virtue of the present Treaty, it will, after permitting the State in question to present its views, take note of the delinquency in a decision accompanied by a justification. It will allow the State in question a period of time within which to provide for the execution of its obligation.

Such State may appeal to the Court's plenary jurisdiction within a period of two months from the notification of the decision.

If the State has not taken steps for the fulfillment of its obligation within the period fixed by the High Authority, or if its appeal has been rejected, the High Authority may, with the concurrence of the Council acting by a 2/3 majority:



(a) suspend the payment of sums which the High Authority may owe to the State in question under the present Treaty;

(b) adopt measures or authorize the other member States to adopt measures involving an exception to the provisions of Article 4, so as to correct the effects of the delinquency in question.

An appeal to the Court's plenary jurisdiction may be brought against the decisions taken in application of paragraphs (a) and (b) within two months following their notification.

If these measures should prove inoperative, the High Authority will lay the matter before the Council.

#### ARTICLE 89

Any dispute among member States concerning the application of the present Treaty, which cannot be settled by another procedure provided for in the present Treaty, may be submitted to the Court at the request of one of the States parties to the dispute.

The Court shall also have jurisdiction to settle any dispute among member States related to the purpose of the present Treaty, if such dispute is submitted to it by virtue of an agreement to arbitrate.

#### ARTICLE 90

If an act committed by an enterprise in violation of the present Treaty also constitutes a violation of an obligation under the legislation of the State to which the enterprise in question is subject, and if legal or administrative action is instituted against the enterprise in question under such legislation, the State in question shall so inform the High Authority, which may suspend action in the premises.

If the High Authority suspends action, it shall be kept informed of the status of the proceedings and permitted to produce any pertinent documents, expert advice and evidence. It shall also be informed of the final decision taken in the case, and shall take account of this decision in determining any sanctions which it may be led to pronounce.

#### ARTICLE 91

If an enterprise does not make within the prescribed time-limit a payment for which it is liable to the High Authority either by virtue of a provision of the present Treaty or the agreements in application thereof or by virtue of a fine or a daily penalty payment imposed by the High Authority; the latter may suspend settlement of sums due by the High Authority to the said enterprise up to the amount of the payment in question.

#### ARTICLE 92

The decisions of the High Authority imposing financial obligations on enterprises are executory.

They shall be enforced on the territory of member States through the legal procedures in effect in each of these States, after the writ of execution in use in the State on the territory of which the decision is to be carried out has been placed upon them; this shall be done with no other formality than the certification of the authenticity of such decisions. The execution of these formalities shall be the responsi-



bility of a Minister which each of the governments shall designate for this purpose.

Enforcement of such decisions can be suspended only by a decision of the Court.

#### ARTICLE 93

The High Authority will maintain whatever relationships appear useful with the United Nations and the Organization for European Economic Cooperation, and will keep these organizations regularly informed of the activity of the Community.

#### ARTICLE 94

The relations of the institutions of the Community with the Council of Europe will be assured under the terms of an annexed Protocol.

#### ARTICLE 95

In all cases not expressly provided for in the present Treaty in which a decision or a recommendation of the High Authority appears necessary to fulfill, in the operation of the common market for coal and steel and in accordance with the provisions of Article 5 above, one of the purposes of the Community as defined in Articles 2, 3 and 4, such decision or recommendation may be taken subject to the unanimous concurrence of the Council and after consultation with the Consultative Committee.

The same decision or recommendation, taken in the same manner, shall fix any sanctions to be applied.

If, following the expiration of the transition period provided for by the Convention containing the transitional provisions, unforeseen difficulties which are brought out by experience in the means of application of the present Treaty, or a profound change in the economic or technical conditions which affects the common coal and steel market directly, should make necessary an adaptation of the rules concerning the exercise by the High Authority of the powers which are conferred upon it, appropriate modifications may be made provided that they do not modify the provisions of Articles 2, 3 and 4, or the relationship among the powers of the High Authority and the other institutions of the Community.

These modifications will be proposed jointly by the High Authority and the Council acting by a five-sixths majority. They shall then be submitted to the opinion of the Court. In its examination, the Court may look into all elements of law and fact. If the Court should recognize that they conform to the provisions of the preceding paragraph, such proposals shall be transmitted to the Assembly. They will enter into force if they are approved by the Assembly acting by a majority of three-quarters of the members present and voting comprising two-thirds of the total membership.

#### ARTICLE 96

Following the expiration of the transition period, the government of each member State and the High Authority may propose amendments to the present Treaty. Such proposals will be submitted to the Council. If the Council, acting by a two-thirds majority, ap-



proves a conference of representatives of the governments of the member States, such a conference shall be immediately convoked by the President of the Council, with a view to agreeing on any modifications to be made in the provisions of the Treaty.

Such amendments will enter into force after having been ratified by all of the member States in conformity with their respective constitutional rules.

## ARTICLE 97

The present Treaty is concluded for a period of fifty years from the date of its entry into force.

## ARTICLE 98

Any European State may request to accede to the present Treaty. It shall address its request to the Council, which shall act by unanimous vote after having obtained the opinion of the High Authority. Also, by a unanimous vote, the Council shall fix the terms of accession. It shall become effective on the day the instrument of accession is received by the government acting as depository of the Treaty.

## ARTICLE 99

The present Treaty shall be ratified by all the member States in accordance with their respective constitutional rules; the instruments of ratification shall be deposited with the Government of the French Republic.

The Treaty shall enter into force on the date of the deposit of the instrument of ratification of the last signatory nation to accomplish that formality.

In the event that all the instruments of ratification have not been deposited within a period of six months following the signature of the present Treaty, the governments of the States which have effected such deposit will consult among themselves on the measures to be taken.

## ARTICLE 100

The present Treaty, drawn up in a single copy, shall be deposited in the archives of the Government of the French Republic, which shall transmit a certified copy thereof to each of the governments of the other signatory States.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have placed their signatures and seals at the end of the present Treaty.

DONE at Paris, the eighteenth of April one thousand nine hundred and fifty-one.

ADENAUER.  
Paul VAN ZEELAND.  
J. MEURICE.  
SCHUMAN.  
SFORZA.  
JOS. BECH.  
STIKKER.  
VAN DEN BRINK.



## ANNEXES

## ANNEX I—DEFINITION OF THE TERMS COAL AND STEEL

1. The expressions "coal" and "steel" cover the products mentioned on the following list.

2. The action of the High Authority concerning special steel products, coke and scrap iron shall take into consideration the particular conditions of their production or trade.

3. With regard to gas coke and lignite used otherwise than for the manufacture of briquettes and semi-coke, the High Authority will exert its powers only to the extent required by any appreciable disturbances which these products might cause on the general market for combustibles.

4. The action of the High Authority must take account of the fact that the production of certain of the products on this list is directly linked to the production of by-products which are not mentioned but whose selling price may influence that of the basic products.



O.E.E.C. CODE NUMBER.	NAME OF PRODUCTS.
	COMBUSTIBLES.
3, 000	
3, 100	<i>Pit-coal.</i>
3, 200	<i>Briquettes of pit-coal.</i>
3, 300	<i>Coke, except coke for electrodes and petroleum coke.</i> Semi-coke of pit-coal.
3, 400	<i>Lignite briquettes.</i>
3, 500	<i>Lignite.</i> Semi-coke of lignite.
4, 000	STEEL.
4, 100	<i>Raw materials for the production of pig-iron and steel (1).</i> Iron ore (except pyrites). Scrap iron. Manganese ore.
4, 200	<i>Pig-iron and ferro-alloys.</i> Pig-iron for the manufacture of steel. Foundry pig-iron and other raw pig-irons. Spiegeleisen and carburetted ferro-manganese (2).
4, 300	<i>Raw and semi-finished products of iron, ordinary steel or special steel, including re-used and reclaimed products.</i> Liquid steel poured or not poured in ingots, including ingots destined for iron-works (3). Semi-finished products: blooms, billets, brames, slabs, wide hot-rolled coils (other than coils considered finished products).
4, 400	<i>Hot finished products of iron, ordinary steel or special steel (4).</i> Rails, sleepers, tie plates and splice bars, beams, heavy sections and bars of 80 mm or more, and sheet pilings. Bars and sections of less than 80 mm, and plates of less than 150 mm. Wire rod. Rounds and squares for tubes. Strips and hot rolled strips (including strips for tubes). Hot rolled sheets less than 3 mm (not covered and covered). Plates and sheets 3 mm thick or more, wide plates of 150 mm or more.
4, 500	<i>Finished products of iron, of ordinary steel or of special steel (5).</i> Tinplate, lead sheets, black iron, galvanized sheets, other covered sheets. Cold rolled sheets less than 3 mm. Magnetic sheets. Strips for making tinplate.

## NOTES.

(1) Raw materials of code number 4190 of the O. E. E. C. nomenclature (other raw materials not elsewhere designated for the production of pig-iron and steel) are not included. In particular, refractories are not included.

(2) Not included are other ferro-alloys.

(3) Where the production of poured steel for casting is concerned, the action of the High Authority is exercised only where such production is considered part of the activity of the steel industry properly speaking.

The other production of poured steel for casting such as that of small and average autonomous foundries is only submitted to statistical controls without resulting discriminatory measures.

(4) Not included are steel castings, iron-works parts and products obtained after powder.

(5) Not included are steel tubes (soldered or not), cold rolled strips with a width less than 500 mm (other than those used to make tinplate), wire rods, bright bars and pig-iron castings (tubes, pipes and accessories of pipe systems, foundry parts).



## ANNEX II—SCRAP IRON

The provisions of the present Treaty are applicable to scrap-iron, taking into consideration the following practical procedures which are required on account of the particular conditions of its collection and marketing:

(a) The prices fixed by the High Authority under the provisions of Chapter V of Title Three are applied to purchases by the industries of the Community; the member States will lend their assistance to the High Authority to see that sellers respect the decisions taken.

(b) The following are excluded from the application of Article 59:

brass alloys whose nature limits their use to foundries not subject to the jurisdiction of the Community;

scrap iron recovered by the industries themselves and used directly by them; however, the resources resulting from such recovered scrap shall be taken into consideration in the establishment of the bases of distribution for commercial scrap.

(c) For the application of the provisions of Article 59 to commercial recovered scrap-iron, the High Authority, in cooperation with the governments of the member States, will gather the necessary information on availabilities and requirements, including exports to third countries.

On the basis of the information thus obtained, the High Authority will distribute the availabilities among the member States in accordance with the provisions of Article 59, taking into account the most economic ways of utilizing this resource as well as the general conditions of exploitation and supply which affect the different parts of the steel industry subject to its jurisdiction.

The following measures will be taken in order to avoid discrimination detrimental to industries subject to the jurisdiction of any one of the member States resulting from deliveries by one member State to another under this allocation plan, or from the exercise of rights granted to enterprises of one member State to purchase on the market of another member State:

1. Each member State will authorize shipments to be made from its territory to the other member States in accordance with the allocation established by the High Authority; on the other hand, each member State will be authorized to apply the controls required to make sure that the shipments are not greater than the quantities thus provided for. The High Authority is empowered to see to it that the provisions adopted are no more restrictive than their purpose requires.

2. The allocation among the member States will be reviewed at intervals as frequent as necessary to maintain a relationship between the proved resources of each member State and the programmed shipments to other member States which is fair both to local buyers and to buyers in other member States.

3. The High Authority will take care that the regulations adopted by each member State concerning sellers subject to its jurisdiction do not have the effect of applying unequal conditions to comparable transactions, particularly according to the nationality of the buyers.



## ANNEX III—SPECIAL STEELS

Special steels and fine carbon steels, as they are described in the draft European customs nomenclature agreed to in Brussels by the Tariff Committee during its meeting of July 15, 1950, will be treated in accordance with which of the following three groups they belong to:

(a) special steels commonly called construction steels, and defined by carbon content below 0,6 percent and of alloys below a total of 8 percent with two or more alloys or 5 percent with only one (1);

(b) fine carbon steels with a carbon content between 0,6 and 1,6 percent; special steel alloys, other than those defined in paragraph (a) above, with an alloy content of less than 40 percent with two or more alloys or 20 percent with only one (1);

(c) special steels not included in the definitions in paragraphs (a) and (b) above.

The products belonging to groups (a) and (b) come within the jurisdiction of the High Authority. For these products, however, the date at which import and export duties or equivalent changes and all quantitative restrictions on their movement within the Community are to be abolished will be postponed until one year after the date fixed for the establishment of the common market for steel. This will permit the study of appropriate methods of application for the Treaty on the basis of the special conditions of the production and the distribution of these categories of products.

For products belong to group (c), the High Authority will, as soon as the Treaty is signed, undertake studies for the purpose of finding appropriate methods for its application to these various products, taking into consideration the special conditions of their production and distribution; as each of these studies is completed, and within three years at the latest from the date of establishment of the common market, the arrangements to be made for each of these products will be submitted by the High Authority to the Council, which will take a decision in the matter in accordance with the provisions of Article 81. During this period, the products belonging to category (c) will be subject only to statistical control by the High Authority.

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(1) Sulphur, phosphorus, silicon and manganese in amounts normally accepted for ordinary steel are not counted as alloys.



*PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF  
THE COMMUNITY*

The High Contracting Parties:

Considering that, under the terms of Article 76 of the Treaty, the Community will enjoy on the territories of the members States the immunities and privileges necessary to the fulfillment of its mission under the conditions provided for in an annexed Protocol; Have agreed to the following:

*Chapter I—Property, Funds and Assets*

ARTICLE 1

The premises and buildings of the Community shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Community may not be the object of any administrative or judicial measure of constraint without the authorization of the Court.

ARTICLE 2

The archives of the Community are inviolable.

ARTICLE 3

The Community may hold any kind of currency and have accounts in any kind of money.

ARTICLE 4

The Community, its assets, income and other properties are exempt from:

(a) all direct taxes; however, the Community will not request exemption from such taxes, charges and duties as constitute only direct remuneration for public utility services;

(b) all customs duties, prohibitions and restrictions on imports and exports with respect to articles intended for its official use; articles thus imported free of duty shall not be sold on the territory of the country into which they shall have been imported except under conditions agreed to by the government of such country;

(c) all customs duties and all prohibitions and restrictions on imports and exports with respect to its publications.

*Chapter II—Communications and Travel Documents*

ARTICLE 5

For their official communications, the institutions of the Community shall enjoy on the territory of each member State the treatment granted by that State to diplomatic missions.



Official correspondence and other official communications of the institutions of the Community shall not be subject to censorship.

#### ARTICLE 6

The President of the High Authority will issue *laissez-passer* to the members of the High Authority and to the higher officials of the institutions of the Community. These passes shall be recognized as valid travel documents by the authorities of the member States.

### *Chapter III—Members of the Assembly*

#### ARTICLE 7

No restrictions of an administrative or other nature shall be placed on the free travel of members of the Assembly proceeding to or coming from the place of meeting of the Assembly.

As concerns customs and exchange control, members of the Assembly shall be granted:

(a) by their own governments, the facilities granted to high officials proceeding abroad on temporary official missions;

(b) by the governments of the other member States, the facilities granted to representatives of foreign governments on temporary official missions.

#### ARTICLE 8

Members of the Assembly may not be examined, held or prosecuted by reason of opinions or votes expressed by them in the exercise of their functions.

#### ARTICLE 9

During the sessions of the Assembly, its members shall enjoy.

(a) on their national territory, the immunity granted to members of the Parliament of their country;

(b) on the territory of any other member State, exemption from all measures of detention and from any legal prosecution.

They shall likewise be covered by such immunity when proceeding to or returning from the place of meeting of the Assembly. Such immunity may not be invoked in the case of *flagrante delicto*, nor may it hinder the right of the Assembly to waive the immunity of any of its members.

### *Chapter IV—Representatives in the Council*

#### ARTICLE 10

Representatives in the Council and persons accompanying them officially shall enjoy, during the exercise of their functions and during their travel to or from the place of meeting, the customary privileges and immunities.



*Chapter V—Members of the High Authority and Officials of the Institutions of the Community*

ARTICLE 11

On the territory of each of the member States, and regardless of their nationality, the members of the High Authority and officials of the Community:

(a) shall enjoy, subject to the provisions of the second paragraph of Article 40 of the Treaty, immunity from legal action for acts performed by them in their official capacity, including their speeches and writings; this immunity shall continue after their functions have ceased;

(b) shall be exempt from any tax on salaries or emoluments paid by the Community;

(c) shall be exempt, along with their spouses and the dependent members of their families, from regulations limiting immigration and from the formalities for the registration of foreigners;

(d) shall enjoy the right to import their personal property and effects free of duty at the time they initially assume their functions in the country in question, and to re-export such property and effects free of duty to their country of residence when their functions cease.

ARTICLE 12

The President of the High Authority shall determine the classes of officials to which the provisions of the present Chapter shall apply. He shall submit the list thereof to the Council and then communicate it to the governments of all the member States. The names of the officials included in such classes shall be communicated periodically to the governments of the member States.

ARTICLE 13

Privileges, immunities and facilities are granted to members of the High Authority and to officials of the institutions of the Community solely in the interest of the Community.

The President of the High Authority shall be required to waive the immunity granted to an official in any case where he deems that the waiver of such immunity is not contrary to the interests of the Community.

*Chapter VI—General Provisions*

ARTICLE 14

The High Authority may conclude, with one or several member States, complementary agreements adjusting the provisions of the present Protocol.

ARTICLE 15

The privileges, immunities and facilities granted to the judges, clerk and personnel of the Court shall be governed by its code.



## ARTICLE 16

Any dispute concerning the interpretation or application of the present Protocol shall be submitted to the Court.

DONE at Paris, the eighteenth of April, one thousand nine hundred and fifty-one.

ADENAUER.

PAUL VAN ZEELAND.

J. MEURICE.

SCHUMAN.

SFORZA.

JOS. BECH.

STIKKER.

VAN DEN BRINK.

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*PROTOCOL ON THE CODE OF THE COURT OF JUSTICE*

The High Contracting Parties:

Desirous of establishing the Code of the Court of Justice provided by Article 45 of the Treaty,  
Have agreed as follows:

## ARTICLE 1

The Court of Justice established by Article 7 of the Treaty shall be constituted and shall perform its duties in accordance with the provisions of the Treaty and of the present Code.

## TITLE I—THE JUDGES

*Oath of Office*

## ARTICLE 2

Before commencing his duties, each judge shall take a public oath to discharge his duties conscientiously and with complete impartiality and to preserve the secrecy of the Court's deliberations.

*Privileges and Immunities*

## ARTICLE 3

The judges shall enjoy legal immunity. They shall retain this immunity after their term of office for all acts performed by them in their official capacity including their statements and writings.

The Court, sitting en banc, may suspend this immunity.

Only the courts with jurisdiction over the highest members of the national judiciary in each member State shall have jurisdiction in criminal proceedings against judges whose immunity has been so suspended.

The judges, without regard to their nationality, shall also enjoy within the territory of each member State the privileges enumerated



in paragraphs (b), (c), and (d) of Article 11 of the Protocol on the privileges and immunities of the Community.

### *Conflicts of Interest*

#### ARTICLE 4

Judges may not hold any political or administrative office.

They may not engage in any business or professional activity, paid or unpaid, except by specific exemption granted by a two-thirds majority of the Council.

They may not acquire or hold, directly or indirectly, any interest in any business related to coal or steel during their term of office and during a period of three years thereafter.

### *Remuneration*

#### ARTICLE 5

The salaries, allowances and pensions of the President and the judges shall be fixed by the Council on the proposal of the Commission provided by paragraph 3 of Article 78 of the Treaty.

### *Termination of Office*

#### ARTICLE 6

In addition to the provisions for regular changes in membership, the term of office of any judge shall be terminated by death or resignation.

In case of resignation, the letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council. The latter notification shall cause such office to become vacant.

Except for instances in which Article 7 below shall be applicable, each judge shall continue to hold office until his successor shall enter upon his duties.

#### ARTICLE 7

The judges may be removed from office only if, in the unanimous opinion of the other members of the Court, they no longer fulfil the requisite conditions thereof.

The President of the Council, the President of the High Authority and the President of the Assembly shall be notified thereof by the clerk.

Such notification shall cause such office to become vacant.

#### ARTICLE 8

A judge who is appointed to replace a member whose term of office has not expired, shall finish the term of office of his predecessor.



## TITLE II—ORGANIZATION

## ARTICLE 9

The judges, the Court advocates and the clerk must reside at the seat of the Court.

## ARTICLE 10

The Court shall be assisted by two Court advocates and one clerk.

*Court Advocates*

## ARTICLE 11

The function of the Court advocates shall be to present publicly and with complete impartiality and independence oral reasoned arguments on the cases submitted to the Court, in order to assist the Court in the performance of its duties, as defined in Article 31 of the Treaty.

## ARTICLE 12

The Court advocates shall be appointed for a term of six years in the same manner as judges. There shall be a partial change in membership every three years. The Court advocate whose term expires at the end of the first period of three years shall be designated by lot. The provisions of the third and fourth paragraphs of Article 32 of the Treaty and the provisions of Article 6 of the present Code shall be applicable to the Court advocates.

## ARTICLE 13

The provisions of Articles 2 to 5 and 8 above shall be applicable to the Court advocates.

The Court advocates may be removed from office only if they no longer fulfil the requisite conditions thereof. This decision shall be taken by unanimous vote of the Council, upon the advice of the Court.

*Clerk*

## ARTICLE 14

The clerk shall be appointed by the Court, which will fix the rules of his office according to the provisions of Article 15 below. He shall take an oath before the Court to discharge his duties conscientiously and with complete impartiality and to preserve the secrecy of the Court's deliberations.

The provisions of Articles 11 and 13 of the Protocol on the privileges and immunities of the Community shall be applicable to the clerk; however, the powers conferred by such Articles on the President of the High Authority shall be exercised by the President of the Court.



## ARTICLE 15

The salaries, compensations and pensions of the clerk shall be fixed by the Council on the proposal of the Commission, provided by Paragraph 3 of Article 78 of the Treaty.

*Personnel of the Court*

## ARTICLE 16

The Court shall have functionaries or employees to permit the performance of its duties. They shall be directed by the clerk, under the general supervision of the President. Their rules of office shall be fixed by the Court. The Court shall designate one of them to act as alternate for the clerk in the event of the latter's absence or incapacity.

In cases of necessity, and in accordance with the conditions to be fixed by the rules of procedure provided in Article 44 below, qualified special masters may be asked to participate in the examination of cases pending before the Court and to cooperate with the reporting judge. Their rules of office shall be fixed by the Council on proposal by the Court. They shall be appointed by the Council.

The provisions of Articles 11, 12 and 13 of the Protocol on the privileges and immunities of the Community are applicable to the functionaries, employees and special masters of the Court; however, the powers conferred by such Articles on the President of the High Authority shall be exercised by the President of the Court.

*Functioning of the Court*

## ARTICLE 17

The Court shall sit permanently. The length of its judicial recesses shall be fixed by the Court, with due regard for its judicial obligations.

*Composition of the Court*

## ARTICLE 18

The Court shall sit en banc. However, the Court may establish within its own membership two divisions composed of three members each, in order to conduct preliminary examinations or to decide certain categories of cases, under the conditions provided by rules which the Court shall establish to that effect.

The Court shall only validly sit with an uneven number of members. The deliberations of the Court sitting en banc are valid if five members are present. The deliberations of the divisions are valid only if they are conducted by three judges: in the event of the absence or incapacity of one of the judges of the division, a judge of the other division may be asked to sit, in accordance with conditions which shall be established by the rules provided hereunder.

Appeals by States or by the Council shall, in all cases be decided en banc.



*Special Rules*

## ARTICLE 19

The judges and the Court advocates may not participate in the disposition of any case in which they have previously participated as a representative, counsel or advocate of one of the parties, or as to which they have been called upon to render judgment as a member of a tribunal, of a commission of inquiry or in any other capacity.

If any judge or Court advocate, for a special reason, deems improper his participation in the judgment or the examination of a particular case, he shall so notify the President. If the President, for a special reason, deems it improper for a member of the Court or a Court advocate to sit or argue in a particular case, he shall so notify the person affected.

The Court shall resolve any difficulties arising from the application of the present Article.

A party may not invoke the nationality of a judge, or the absence from the bench or from one division of a judge of its own nationality, in order to ask a change in the composition of the Court or of one of its divisions.

## TITLE III—PROCEDURE

*Representation and Appearances of the Parties*

## ARTICLE 20

The States and the different institutions of the Community shall be represented before the Court by representatives appointed for each case; the representative may be assisted by an advocate admitted to the bar of one of the member States.

Enterprises and all other individuals or legal entities must be represented by an advocate admitted to the bar of one of the member States.

The representatives and advocates appearing before the Court shall have the rights and guarantees necessary for the independent performance of their duties, under the conditions fixed in rules to be established by the Court and submitted to the approval of the Council.

The Court shall have, with respect to the advocates who appear before it, the powers normally recognized in this regard to courts and tribunals, under the conditions fixed by the same rules.

Professors of the member States whose national law allows them to plead shall have the same rights before the Court as are recognized to advocates by the present Article.

*Phases of Procedure*

## ARTICLE 21

The procedure before the Court shall be composed of two phases: written and oral.

The written procedure shall include communications to the parties, as well as to the institutions of the Community whose decisions are in dispute, petitions, memoranda, defenses and observations and answers, if any, as well as all documentary evidence and supporting papers or certified copies thereof.



Notices shall be served by the clerk in the sequence and within the time intervals fixed by the rules of procedure.

The oral procedure shall include the reading of the report presented by the reporting judge, as well as the hearing by the Court of witnesses, experts, representatives and advocates and the arguments of the Court advocate.

### *Petitions*

#### ARTICLE 22

Matters shall be referred to the Court by a petition addressed to the clerk. The petition must contain the name and the domicile of the party and the capacity of the signer, the subject-matter of the dispute, the arguments and a short summary of the grounds on which the petition is based.

This petition must be accompanied, where appropriate, by the decision whose annulment is asked, or, in the case of an appeal against an implicit decision, by documentary evidence showing the date of filing of the request. If these documents are not annexed to the petition, the clerk shall ask the party in question to produce them within a reasonable period of time, and there shall be no foreclosure if compliance occurs after the time for appeal has elapsed.

### *Transmittal of Documents*

#### ARTICLE 23

When an appeal is taken against a decision of one of the institutions of the Community, such institution must transmit to the Court all the documents relating to the case before the Court.

### *Methods of Examination*

#### ARTICLE 24

The Court may ask the parties, their representatives or officials and employees, as well as the governments of the Member States, to produce all documents and furnish all information which the Court deems desirable. In case of refusal, the Court shall take judicial notice thereof.

#### ARTICLE 25

The Court may at any time charge any person, body, office, commission or organ of its own choice with the duty of making a formal inquiry or expert study; to this effect, the Court may draw up a list of persons or organizations qualified to serve as experts.

### *Publicity of the Hearings*

#### ARTICLE 26

The hearings shall be public, unless the Court, for substantial reasons, shall decide otherwise.



*Reports of the Hearings*

## ARTICLE 27

A report shall be kept of each hearing, signed by the President and the clerk.

*Hearings*

## ARTICLE 28

The President shall fix the schedule of the hearings.

Witnesses may be heard under the conditions which shall be determined by the rules of procedure. They may be heard under oath.

During the hearings, the Court may also examine the experts and persons charged with a formal inquiry, as well as the parties themselves; the latter, however, may only plead through their representative or advocate.

When it is established that a witness or an expert has concealed or falsified the truth as to the facts on which he has testified or has been examined by the Court, the Court shall be empowered to refer such misfeasance to the Minister of Justice of the State of such witness or expert, for the application of the appropriate sanctions provided by the national law.

The Court shall have, with respect to defaulting witnesses, the powers which are generally recognized in this regard to courts and tribunals, under the conditions fixed by rules established by the Court and submitted to the approval of the Council.

*Secrecy of Judicial Deliberations*

## ARTICLE 29

The Court's deliberations shall be and shall remain secret.

*Judgments*

## ARTICLE 30

Judgments shall set forth the reasons therefor. They shall state the names of the judges who have participated therein.

## ARTICLE 31

Judgments shall be signed by the President, the reporting judge and the clerk. They shall be read in public session.

*Costs*

## ARTICLE 32

Costs shall be determined by the Court.

*Summary Procedure*

## ARTICLE 33

The President of the Court may make summary rulings, in accordance with a procedure to be established by the rules of procedure and



in derogation, to the extent necessary, of certain provisions of the present Code, upon arguments for the granting of suspension of execution provided in the second paragraph of Article 39 of the Treaty, or for the application of provisional measures under the third paragraph of the same Article, or for the suspension of compulsory execution in accordance with the third paragraph of Article 92.

In the event of the absence or incapacity of the President, he shall be replaced by another judge under the conditions fixed by the rules provided in Article 18 of the present Code. The ruling of the President or his alternate shall be provisional in nature and shall not prejudice in any way the decision of the Court on the matter in its entirety.

### *Intervention*

#### ARTICLE 34

Individuals or legal entities establishing an interest in the outcome of a dispute pending before the Court may intervene in such dispute.

The arguments in favor of a petition for intervention may be directed only to the affirmation or dismissal of the arguments of a party.

### *Judgment by Default*

#### ARTICLE 35

When, in an appeal to the Court's general jurisdiction, the defendant is duly summoned and fails to file written arguments, default judgment shall be rendered against him. This judgment may be contested within a month from the date of the notification of the judgment. Such proceeding shall not suspend the execution of the default judgment, unless otherwise decided by the Court.

### *Contest by Third Parties*

#### ARTICLE 36

Individuals or legal entities, as well as institutions of the Community, may institute third-party proceedings to contest judgments which have been rendered without notification to them, in the cases and under the conditions to be fixed by the rules of procedure.

### *Interpretation*

#### ARTICLE 37

In case of difficulty as to the meaning or scope of a judgment, such judgment shall be interpreted by the Court upon the request of any party or any institution of the Community establishing an interest therein.

### *Reconsideration*

#### ARTICLE 38

The Court may be asked to reconsider a judgment only on grounds of discovery of a fact susceptible of exerting a decisive influence there-



on, which was unknown to the Court and to the party requesting such reconsideration prior to the rendering of such judgment.

The reconsideration procedure shall commence with a judgment of the Court explicitly setting forth the existence of a new fact, finding therein the characteristics giving rise to reconsideration, and holding the request for reconsideration admissible for this reason.

No request for reconsideration may be introduced after the expiration of a period of ten years from the date of the judgment.

### *Time Limits*

#### ARTICLE 39

The appeals provided by Articles 36 and 37 of the Treaty must be taken within the period of one month provided in the last paragraph of Article 33.

The periods of time based upon distance shall be fixed by the rules of procedure.

There shall be no loss of rights by reason of the expiration of time periods if the party in question proves the existence of an Act of God or force majeure.

### *Limitations*

#### ARTICLE 40

The proceedings provided in the first two paragraphs of Article 40 of the Treaty must be instituted within five years from the date of the occurrence of the circumstance giving rise thereto. This limitation shall be tolled either by the petition to the Court or by the previous request which the aggrieved may direct to the competent institution of the Community. In this last case, the petition must be filed within the period of one month provided in the last paragraph of Article 33; the provisions of the last paragraph of Article 35 shall be applicable where appropriate.

### *Special Rules for Dispute Between Member States*

#### ARTICLE 41

When a dispute between member States is submitted to the Court, under Article 89 of the Treaty, the other member States shall be notified forthwith of the subject matter of such dispute.

Each of the States shall have the right to intervene in the proceeding.

The disputes referred in the present Article must be adjudged by the Court en banc.

#### ARTICLE 42

If a State intervenes in a case submitted to the Court under the conditions provided in the preceding Article, the interpretation given by the judgment shall also be binding on it.



*Appeals by Third Parties*

## ARTICLE 43

The decisions of the High Authority under Section 2 of Article 63 of the Treaty must be notified to the buyer as well as to the enterprises in question; if the decision refers to all or an important category of enterprises, such individual notification may be replaced by publication.

An appeal may be taken, under the conditions in Article 36 of the Treaty, by any person on whom a daily penalty judgment has been levied in application of paragraph 4 of Section 5 of Article 66.

*Rules of Procedure*

## ARTICLE 44

The Court shall establish its own rules of procedure. These rules shall contain all the provisions necessary for the application and, where necessary, the complementation of the present Code.

*Transitory Provision*

## ARTICLE 45

Immediately after the taking of the oath, the President of the Council shall proceed to designate by lot the judges and the Court advocates whose term shall expire at the end of the first period of three years in accordance with Article 32 of the Treaty.

DONE in Paris, the eighteen of April, one thousand nine hundred and fifty-one.

ADENAUER.

PAUL VAN ZEELAND.

J. MEURICE.

SCHUMAN.

SFORZA.

JOS. BECH.

STIKKER.

VAN DEN BRINK.

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*PROTOCOL CONCERNING RELATIONS WITH THE  
COUNCIL OF EUROPE*

The High Contracting Parties:

Fully aware of the need to establish ties as close as possible between the European Coal and Steel Community and the Council of Europe, particularly between the two Assemblies;

Taking note of the recommendations of the Council of Europe;  
Have agreed to the following provisions:



## ARTICLE 1

The governments of the member States are invited to recommend to their respective Parliaments that the members of the Assembly, which these Parliaments are called upon to designate, should preferably be chosen from among the representatives of the Consultative Assembly of the Council of Europe.

## ARTICLE 2

The Assembly of the Community will forward annually to the Consultative Assembly of the Council of Europe a report on its activity.

## ARTICLE 3

The High Authority will communicate each year to the Committee of Ministers and to the Consultative Assembly of the Council of Europe the general report provided for in Article 17 of the Treaty.

## ARTICLE 4

The High Authority will inform the Council of Europe of the action which it has been able to take on any recommendations which the Committee of Ministers of the Council of Europe might have addressed to it under Article 15 (b) of the Statute of the Council of Europe.

## ARTICLE 5

The present Treaty and its Annexes will be registered with the General Secretariat of the Council of Europe.

## ARTICLE 6

Agreements between the Community and the Council of Europe may, among other things, provide for any other type of mutual assistance and collaboration between the two organizations, and the appropriate forms thereof.

DONE at Paris, the eighteenth of April, one thousand nine hundred and fifty-one.

ADENAUER.

PAUL VAN ZEELAND.

J. MEURICE.

SCHUMAN.

SFORZA.

JOS. BECH.

STIKKER.

VAN DEN BRINK.



*EXCHANGE OF LETTERS*

*Between the Government of the German Federal Republic and the  
Government of the French Republic*

*CONCERNING THE SAAR*

[Translation]

THE FEDERAL CHANCELLOR AND  
MINISTER FOR FOREIGN AFFAIRS

*Paris, April 18 1951.*

His Excellency

President ROBERT SCHUMAN

*Minister for Foreign Affairs*

*Paris*

Mr. PRESIDENT,

The representatives of the Federal Government have declared on several occasions during the negotiations concerning the European Coal and Steel Community that the definitive settlement of the status of the Saar could only be made by the Treaty of Peace or a similar Treaty. During the negotiations they have also declared that in signing the Treaty the Federal Government does not in any way express its recognition of the present status of the Saar.

I repeat this declaration and request you to confirm that the French Government is in agreement with the Federal Government as to the fact that the definitive settlement of the status of the Saar can be made only by the Treaty of Peace or by a similar Treaty, and that the French Government does not consider the signature by the Federal Government of the Treaty constituting the European Coal and Steel Community to constitute a recognition by the Federal Government of the present status of the Saar.

Please accept, Mr. President, the expression of my very high consideration.

*Signed:* ADENAUER.

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[Translation]

PARIS, *April 18, 1951.*

Dr. KONRAD ADENAUER,

*Chancellor and Minister for Foreign Affairs,  
of the German Federal Republic.*

Mr. CHANCELLOR,

In reply to your letter of April 18, 1951, the French Government takes note of the fact that the Federal Government, in signing the Treaty constituting the European Coal and Steel Community, does not recognize the present status of the Saar.

The French Government declares, in conformity with its own point of view, that it acts in the name of the Saar by virtue of the present status of that territory, but that it does not consider the signature of the Treaty by the French Government as a recognition by the Federal Government of the present status of the Saar. It has not considered that the Treaty, constituting the European Coal and Steel Community



prejudiced the definitive status of the Saar, which is to be decided by the Treaty of Peace or by a treaty taking its place.

Please accept, Mr. Chancellor, the expression of my very high consideration.

*Signed:* SCHUMAN.

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## CONVENTION CONTAINING THE TRANSITIONAL PROVISIONS

### CONVENTION

The High Contracting Parties:

Desiring to establish the Convention containing the transitional provisions as provided for in Article 85 of the Treaty,

Have agreed to the following:

#### *Purpose of the convention*

##### SECTION 1

1. The purpose of the present Convention, drawn up in compliance with Article 85 of the Treaty, is to set forth the measures necessary for the creation of the common market and the progressive adaptation of production to the new conditions in which it will take place, in a way which will facilitate the removal of the disequilibria which resulted from previous conditions.

2. To this end, the Treaty will be placed in effect during two periods, to be known as the preparatory period and the transition period.

3. The preparatory period will extend from the date on which the Treaty goes into effect to the date on which the common market is created.

During this period:

(a) the institutions of the Community will be established and the relations among these institutions, the enterprises and their associations, and the associations of workers, consumers, and distributors will be organized in such a way as to place the operations of the Community on a basis of constant consultation and to establish a common viewpoint and mutual understanding among all the interested parties;

(b) the action of the High Authority will involve:

(1) studies and consultations;

(2) negotiations with third countries.

The purpose of the studies and consultations is to permit the establishment of an overall view of the situation in the coal and steel industries of the Community and of the problems which this situation involves, through constant cooperation among the High Authority and the governments, the enterprises and their associations, the workers and the consumers and distributors; and to make possible the preparation of the concrete measures which must be taken to cope with those problems during the transition period.

The purpose of the negotiations with third countries is to establish bases of cooperation between the Community and such countries, and



to obtain, prior to the elimination of customs duties and quantitative restrictions within the Community, the necessary exceptions to:

the most-favored-nation clause within the framework of the General Agreement on Tariffs and Trade and of bilateral agreements; and

the non-discrimination clause governing the liberalization of trade within the framework of the Organization for European Economic Cooperation.

4. The transition period shall begin on the date on which the common market is created and shall end at the expiration of a period of five years following the creation of the common market for coal.

5. The provisions of the Treaty shall be applicable as soon as the Treaty goes into effect under the provisions of Article 99, subject to the exceptions and without prejudice to the additional provisions contained in the present Convention for the purposes defined above.

Except where otherwise expressly provided in the present Convention, such exceptions and additional provisions shall cease to be applicable and the measures taken for their implementation shall cease to have effect upon expiration of the transition period.

## PART ONE—IMPLEMENTATION OF THE TREATY

### *Chapter I—Establishment of the Institutions of the Community*

#### SECTION 2—THE HIGH AUTHORITY

1. The High Authority shall assume its duties upon the designation of its members.

2. In order to fulfill the mission which it is assigned by virtue of Section 1 of the present Convention, the High Authority shall immediately exercise the information and study functions conferred on it by the Treaty, in accordance with and using the powers specified in Articles 46, 47, 48 and 54, paragraph 3. As soon as the High Authority is established, the governments shall bring to its attention, in accordance with Article 67, any action likely to modify competitive conditions and, in accordance with Article 75, those clauses of trade agreements or of other agreements of analogous effect which pertain to coal and steel.

On the basis of the information received on equipment and on investment programs, the High Authority shall determine the date as of which the provisions of Article 54, other than those referred to in the preceding paragraph, shall be applicable as concerns both investment programs and projects under way on that date. The next to last paragraph of Article 54 shall not apply, however, to projects for which orders were placed prior to March 1, 1951.

Upon its establishment, the High Authority shall, in consultation with the governments, exercise to the extent necessary the powers provided in paragraph 3 or Article 59.

The High Authority shall not exercise the other functions bestowed upon it by the Treaty prior to the opening date of the transition period for each of the products in question.

3. On the dates specified above, the High Authority shall inform the member States that it is in a position to assume each of its functions. Until such notification, the corresponding powers shall continue to be exercised by the member States.



Nevertheless, subsequent to a date which the High Authority will fix upon its establishment, consultations will take place between the High Authority and any member State prior to any legislative or regulatory measures which such State might propose to take concerning matters with respect to which the High Authority has competence under the terms of the Treaty.

4. Without prejudice to the provisions of Article 67 concerning the effect of new measures, the High Authority will examine with the governments concerned the effect on the coal and steel industries of existing legislative and regulatory measures, particularly those which concern the fixing of prices of by-products outside the High Authority's jurisdiction, as well as of contractual social security systems to the extent that such systems have consequences equivalent to those of regulatory measures. If it finds that, by their own effect or by the discrepancies which they create between two or more member States, certain of these measures could seriously endanger competitive conditions in the coal and steel industries on the market of the countries in question, in the rest of the common market or on export markets, the High Authority shall, after consulting the Council, propose to the governments concerned any action which it deems necessary to correct such measures or to compensate for their effects.

5. In order that its action may repose on bases independent of the varying practices of enterprises, the High Authority shall, in cooperation with the governments, the enterprises and their associations, the workers and the consumers and distributors, seek a way to make comparable:

the price scales practised for different qualities of products based on the average price for such products, or for the successive stages of processing such products; and  
the calculation of amortisation allowances.

6. During the preparatory period, the principal task of the High Authority shall be to enter into relations with the enterprises, their associations, and the associations of workers and of consumers and distributors, in order to acquire a concrete understanding of the over-all situation as well as of the individual situations in the Community.

With the aid of the information which it gathers concerning markets, supplies, production conditions of enterprises, living conditions of the workers and modernization and equipment programs, the High Authority will draw up in cooperation with all interested parties a general review of the situation of the Community in order to enlighten their common action.

The measures necessary to establish the common market and to facilitate the adaptation of production will be drawn up on the basis of these consultations and of this over-all understanding.

### SECTION 3—THE COUNCIL

The Council will meet during the month following the establishment of the High Authority.

### SECTION 4—THE CONSULTATIVE COMMITTEE

In order to establish the Consultative Committee in accordance with Article 18 of the Treaty, the governments shall forward to the High Authority upon its establishment all information on the situa-



tion of the producers', workers', and consumers' organizations for coal and for steel existing in each country; such information shall cover in particular the composition, the geographical scope, the statutes, the duties, and the role of these organizations.

On the basis of the information thus obtained and within two months following its establishment, the High Authority shall request the Council to designate the producers' and workers' organizations authorized to present candidates.

The Consultative Committee shall be set up within the month following this decision of the Council.

#### SECTION 5—THE COURT

The Court shall assume its duties upon designation of its members. Its first President shall be designated in the same manner as the President of the High Authority.

It shall establish its rules of procedure within a period of three months thereafter.

Appeals may be introduced before the Court only after the publication of these rules of procedure. The levying of daily penalty payments and the collection of fines shall be suspended until that date.

The periods of grace for the introduction of appeals shall run only from the same date.

#### SECTION 6—THE ASSEMBLY

The Assembly shall meet one month following the date of establishment of the High Authority to elect officers and draw up its rules of procedure. The first meeting of the Assembly shall be called by the President of the High Authority. Until its officers are elected, the Assembly shall be presided over by its eldest member.

The Assembly shall hold a second meeting five months after the date of establishment of the High Authority to hear a report on the overall situation in the Community, accompanied by the first general estimate of expenditures.

#### SECTION 7—ADMINISTRATIVE AND FINANCIAL MEASURES

1. The first fiscal year shall extend from the date of establishment of the High Authority to June 30 of the following year.

2. The levy provided in Article 50 of the Treaty may be collected as soon as the first general estimate of expenditures is prepared. As a transitional measure and to meet initial administrative expenses, member States shall make reimbursable advances without interest, allocated in proportion to their contributions to the Organization for European Economic Cooperation.

3. Until the Commission provided for in Article 78 of the Treaty has decided upon the number of employees and their status, the necessary personnel shall be hired on a contract basis.

### *Chapter II—Creation of the Common Market*

#### SECTION 8

After the way has been prepared by the establishment of all the institutions of the Community, by general consultations among the



High Authority, the governments, the enterprises and their associations, the workers and the consumers, and by the overall review of the situation in the Community derived from the information thus obtained, the common market will be created in accordance with the provisions of Article 4 of the Treaty.

These provisions shall enter into effect, without prejudice to the special measures provided in the present Convention:

(a) for coal, upon notification by the High Authority that the perequation measures provided in Part Three, Chapter II of the present Convention, have been placed in effect;

(b) for iron ore and scrap iron, on the same date as for coal;

(c) for steel, two months after the date specified above.

The perequation measures provided for coal under the provisions of Part Three of the present Convention shall be placed in effect within six months following the date the High Authority is established.

In case an additional period should be necessary, it shall be fixed by the Council upon the proposal of the High Authority.

#### SECTION 9—ELIMINATION OF CUSTOMS DUTIES AND QUANTITATIVE RESTRICTIONS

Subject to the special measures provided in the present Convention, the member States shall eliminate all export and import duties or equivalent charges and all quantitative restrictions on the movement of coal and steel within the Community on the dates fixed for the creation of the common market for coal, iron ore and scrap iron and for steel, respectively, under the terms of Section 8 above.

#### SECTION 10—TRANSPORT

The High Authority shall immediately call into session a Commission made up of experts designated by the governments of the member States, which shall be charged with the study of measures relative to the transport of coal and steel. These measures shall be proposed to the governments in furtherance of the aims defined in Article 70 of the Treaty.

Without prejudice to the provisions of the last paragraph of Article 70, the negotiations required to obtain the agreement of the governments to the various measures proposed shall be undertaken upon the initiative of the High Authority. The High Authority shall also take the initiative in any negotiations which may prove necessary with interested third countries.

The measures to be studied by the Commission of experts are the following:

(1) elimination of discriminatory practices contrary to the provisions of paragraph 2 of Article 70;

(2) for transport within the Community, establishment of direct international rates which take into account total distance and are depressive in nature, yet do not prejudice the distribution of charges among the transport enterprises concerned;

(3) examination of the prices and conditions of transport of every nature applied for coal and steel in the case of the different methods of transport, in order to harmonize these prices and conditions within



the Community to the extent necessary for efficient operation of the common market, taking account, among other elements, of the real cost of transport.

The Commission of experts must carry out its studies within the following time limits:

three months for the measures referred to in paragraph (1) above; and

two years for the measures referred to in paragraphs (2) and (3) above.

The measures referred to in paragraph (1) shall go into effect not later than the creation of the common market for coal.

The measures referred to in paragraphs 2) and 3) above shall go into effect simultaneously as soon as the agreement of the governments is obtained. In the event, however, that the governments of the member States fail to agree on the measures referred to in paragraph (3) above within two and a half years following the establishment of the High Authority, the measures referred to in paragraph (2) shall go into effect separately on a date fixed by the High Authority. In the latter case, the High Authority shall make, upon the proposal of the Commission of experts, such recommendations as it deems necessary to avoid serious disturbances in the field of transport.

The rate measures referred to in paragraph 4 of Article 70, which are in effect upon establishment of the High Authority, shall be brought to the attention of the High Authority, which shall grant the necessary time limits for their modification in order to avoid serious economic disturbances.

The Commission of experts shall seek and propose to the governments concerned the exception which the latter shall authorize the Luxembourg government to make to the measures and principles defined above in view of the special situation of the Luxembourg Railways.

After consulting the Commission of experts, the governments concerned shall authorize the Luxembourg government to continue to apply during the permanent period the solution adopted, to the extent required by this special situation.

Until an agreement on the measures referred to in the above paragraphs is reached among the governments concerned, the Luxembourg government is authorized to refrain from applying the principles set forth in Article 70 of the Treaty and in the present section.

#### SECTION 11—SUBSIDIES, DIRECT OR INDIRECT ASSISTANCE, SPECIAL CHARGES

Upon establishment of the High Authority, the governments of the member States shall notify the High Authority of any assistance and subsidies which are being granted to, or any special charges which are being imposed upon the operation of the coal and steel industries within their respective territories. Unless the High Authority agrees to the maintenance of such assistance, subsidies, or special charges and to the conditions to which such maintenance is subject, they shall be suspended on the dates and under the conditions fixed by the High Authority after consulting the Council, with the stipulation that such suspension shall not be obligatory prior to the opening date of the transition period for the products in question.



## SECTION 12—AGREEMENTS AND MONOPOLISTIC ORGANIZATIONS

All information concerning agreements or monopolistic organizations covered by Article 65 shall be brought to the attention of the High Authority under the terms of Section 3 of that article.

In those cases where the High Authority does not grant the authorization provided in Section 2 of Article 65, it shall fix reasonable time limits at the expiration of which the prohibitions provided in Article 65 shall take effect.

In order to facilitate the liquidation of the organizations prohibited by virtue of Article 65, the High Authority may name liquidators which shall be responsible to it and shall act under its instructions.

With the assistance of such liquidators, the High Authority shall study the problems which arise and the steps which should be undertaken in order:

- to assure the most economic distribution and use of the products, and particularly of the different varieties and qualities of coal;

- to avoid, in case of reduced demand, cutbacks in production capacities which are necessary to the supply of the single market in normal periods or in time of economic prosperity, particularly in the case of coal installations;

- to avoid an inequitable distribution among the workers of such reductions in employment as might result from reduced demand.

On the basis of these studies and in accordance with the missions assigned to it, the High Authority will establish any procedures or organizations permissible under the Treaty which it may deem appropriate to the solution of these problems in the exercise of its powers, in particular under Articles 53, 57, 58, and Chapter V of Title Three. The duration of such procedures or organizations will not be limited to the transition period.

## SECTION 13

The provisions of Section 5 of Article 66 shall be applicable as soon as the Treaty enters into effect. In addition, they may be applied to concentration operations carried out between the date of signature of the Treaty and the date of its entry into force if the High Authority has proof that these operations were carried out in order to evade the application of Article 66.

Until the regulation specified in Section 1 of Article 66 has been issued, the operations referred to in Section 1 shall not obligatorily be subject to prior authorization. The High Authority shall not be obliged to issue a decision immediately on the requests for authorization submitted to it.

Until the regulation specified in Section 4 of Article 66 has been issued, the information referred to in that Section can be demanded only of enterprises subject to the jurisdiction of the High Authority under the terms of Article 47.

The regulations specified in Sections 1 and 4 of Article 66 shall be issued within four months of the establishment of the High Authority.

The High Authority shall gather from the governments, the associations of producers, and the enterprises all information necessary for the application of the provisions of Sections 2 and 7 of Article 66.



concerning the situations existing in the various regions of the Community.

The provisions of Section 6 of Article 66 shall become applicable as the provisions which they respectively sanction enter into effect.

The provisions of Section 7 of Article 66 shall be applicable upon the date of creation of the common market under the terms of Section 8 of the Convention.

## PART TWO—RELATIONS OF THE COMMUNITY WITH THIRD COUNTRIES

### *Chapter I—Negotiations With Third Countries*

#### SECTION 14

Upon the establishment of the High Authority, the member States shall undertake negotiations with the governments of third countries, and particularly with the British Government, on overall economic and commercial relations concerning coal and steel between the Community and such countries. The High Authority, acting upon instructions adopted unanimously by the Council, shall act for the member States as a group in these negotiations. Representatives of the member States may be present at these negotiations.

#### SECTION 15

In order to give the member States complete freedom to negotiate concessions on the part of third countries, particularly in exchange for a lowering of customs duties on steel in the direction of a harmonization with the least protective tariffs practised in the Community, the member States agree to the following provisions to take effect upon the creation of the common market for steel:

For imports from third countries which fall within quotas to be set in accordance with the fourth paragraph of this section on the basis of domestic consumption of the products in question, the Benelux countries will maintain the duties which they are applying at the time of the entry into force of the Treaty.

The Benelux countries shall subject imports which take place over and above this quota, and which are thus considered to be destined for trans-shipment to other countries of the Community, to duties equal to the lowest duty applied, within the framework of the Brussels Nomenclature of 1950, in the other member States upon the entry into force of the Treaty.

Such "tariff quotas" shall be established annually for each heading of the Benelux tariff code by the governments of the Benelux countries in agreement with the High Authority, subject to revision every three months; they shall take account of the evolution of requirements and of trade patterns. The first such quotas shall be fixed on the basis of average imports of the Benelux countries from third countries during an appropriate reference period, taking account, if necessary, of new production scheduled to supersede certain of such imports. Excess imports necessitated by unforeseen requirements shall immediately be reported to the High Authority, which may forbid them subject to the application of temporary controls on deliveries from Benelux countries to the other member States, if it



should note a sizeable increase in these deliveries solely as a result of such surplus imports. Importers in the Benelux countries shall be entitled to obtain the lowest customs duty only if they agree not to re-export the products in question to the other countries of the Community.

The obligation of the Benelux countries to establish a "tariff quota" shall be terminated as may be provided in the agreement concluded as a result of the negotiations with Great Britain, and in any case not later than the end of the transition period.

If, at the end of the transition period or upon earlier removal of the "tariff quota", the High Authority should recognize that one or more member States are justified in practising toward third countries customs duties higher than those which would result from a harmonization with the least protective tariffs applied in the Community, it may, under the conditions provided in Section 29, authorize these States themselves to apply the appropriate measures to assure, for their indirect imports through member States with lower tariffs, a protection equal to that which results from the application of their own tariff to their direct imports.

In order to facilitate the harmonization of customs duties, the Benelux countries agree to increase their present tariffs on steel within a maximum limit of two points to the extent deemed necessary by the High Authority in consultation with their governments. This obligation shall not become effective until the "tariff quota" referred to in the second, third, and fourth paragraphs of this Section shall be eliminated and until at least one of the member States bordering on the Benelux countries shall refrain from applying the equivalent mechanisms referred to in the immediately preceding paragraph.

#### SECTION 16

Except with the agreement of the High Authority, the obligation contracted by virtue of Article 72 of the Treaty shall prohibit the member States from binding through international agreements those customs duties in effect at the time of the entry into force of the Treaty.

Prior bindings resulting from bilateral or multilateral agreements shall be reported to the High Authority, which will examine whether their maintenance appears compatible with the efficient operation of the common organization, and, if necessary, may make such recommendations to the member States as may be necessary to remove these bindings according to the procedures specified in the agreements involved.

#### SECTION 17

Trade agreements which are to remain in effect for more than one year following the date of entry into force of the present Treaty, or which contain a clause providing for tacit renewal, shall be reported to the High Authority, which may address such recommendations to the member State concerned as may be necessary to bring the provisions of such agreements into conformity with Article 75 according to the procedures specified in such agreements.



*Chapter II—Exports*

## SECTION 18

Until the provisions of the exchange regulations of the various member States which concern foreign exchange left at the disposal of exporters are made uniform, special measures must be applied in order that the elimination of customs duties and quantitative restrictions among member States shall not cause certain of these States to be deprived of the proceeds in the foreign exchange of third countries earned by the exports of their enterprises. In application of this principle, the member States agree to apply their own exchange regulations in such a way as to permit coal and steel exporters to utilize foreign exchange earnings only to the extent permitted under the exchange regulations of the member State on whose territory the product in question originated.

The High Authority shall be empowered to see to the application of such measures by addressing recommendations to the governments after consultation with the Council.

## SECTION 19

If the High Authority should find that, by substituting re-exports for direct exports, the creation of the common market results in a shift in the pattern of trade with third countries which causes substantial harm to one of the member States, it may, at the request of the government concerned, require the producers in such State to insert a destination clause in their sales contracts.

*Chapter III—Exception to the Most-Favored-Nation Clause*

## SECTION 20

With regard to those countries benefiting from the most-favored-nation clause through the application of Article 1 of the General Agreement on Tariffs and Trade, the member States shall take joint action towards the Contracting Parties to the above-mentioned Agreement in order to exempt the provisions of the present Treaty from the application of the article in question. If necessary, a special session of the Contracting parties to the G.A.T.T. shall be requested for this purpose.

As concerns those countries which, while not parties to the General Agreement on Tariffs and Trade, nevertheless benefit from the most-favored-nation clause by virtue of bilateral agreements in effect, negotiations shall be undertaken upon the signature of the Treaty. In the absence of consent on the part of the interested countries, such commitments shall be modified or denounced in accordance with the terms thereof.

Should a country refuse its consent to the member States or to any one of them, the other member States agree to lend effective assistance, which may even extend to denunciation by all of the member States of the agreements concluded with the country in question.



*Chapter IV—Liberalization of Trade*

## SECTION 21

The member States of the Community recognize that they constitute a special customs system in the sense of Article 5 of the Organization for European Economic Cooperation's Trade Liberalization Code as it stands on the date of signature of the Treaty. They therefore agree to make the necessary notification to the Organization.

*Chapter V—Special Provision*

## SECTION 22

Without prejudice to the expiration of the transition period, coal and steel trade between the Federal Republic of Germany and the Russian Zone of Occupation shall be regulated by the Government of the Federal Republic in agreement with the High Authority.

## PART THREE—GENERAL PRECAUTIONARY MEASURES

*Chapter I—General Provisions*

## SECTION 23—READAPTATION

1. If the consequences of the establishment of the single market should oblige certain enterprises or parts of enterprises to cease or to modify their activity during the transition period defined in Section 1 of the present Convention, the High Authority, at the request of the interested governments and under the conditions specified below, shall furnish assistance in order to protect the workers from the burdens of readaptation and assure them a productive employment, and may grant non-reimbursable assistance to certain enterprises.

2. At the request of the interested governments and under the conditions defined in Article 46, the High Authority shall participate in a study of the possibilities of reemployment for unemployed workers either in existing enterprises or through the creation of new activities.

3. According to the procedure specified in Article 54, the High Authority shall facilitate the financing of approved programs submitted by the interested governments for the transformation of enterprises or for the creation, either in the industries coming under its jurisdiction or, with the concurrence of the Council, in any other industry, of new, economically sound activities capable of providing a productive employment for workers who have been released. Subject to the concurrence of the government concerned, the High Authority shall give preference in granting such facilities to the programs submitted by enterprises which have been obliged to cease their activity on account of the establishment of the common market.

4. The High Authority shall grant non-reimbursable assistance for the following purposes:

(a) to contribute, in case of total or partial closing of enterprises, to the payment of allowances to tide the workers over until they can find new employment;



(b) to contribute, by means of allotments to enterprises, to assuring the payment of their personnel in case of temporary unemployment necessitated by their change in activity;

(c) to contribute to the payment of allowances to workers for reinstallation expenses;

(d) to contribute to the financing of technical retraining for workers obliged to change employment.

5. The High Authority may also grant non-reimbursable assistance to enterprises obliged to cease their activity on account of establishment of the single market, provided that the sole and direct cause of this situation is the limitation of the single market to the coal and steel industries, and that this situation leads to a relative increase of production in other enterprises of the Community. Such assistance shall be limited to the amount necessary to enable the enterprises to meet payments which are due immediately.

Any request for such assistance shall be submitted by the enterprise concerned through the intermediary of its respective government. The High Authority shall have the right to refuse assistance to any enterprise which shall have failed to inform its government and the High Authority of the development of a situation which might lead it to cease or modify its activity.

6. The High Authority shall subject the granting of non-reimbursable assistance under the terms of paragraphs 4 and 5 above to the payment by the State concerned of a special contribution at least equal to the amount of such assistance, except where otherwise provided by a decision of the Council adopted by a two-third majority.

7. The methods of financing specified for the application of Article 56 apply to the present section.

8. Interested parties may benefit from the provisions of the present section during the two years following the expiration of the transition period upon decision of the High Authority taken with the concurrence of the Council.

## *Chapter II—Special Provisions for Coal*

### SECTION 24

It is recognized that precautionary mechanisms are necessary during the transition period to avoid sudden and harmful shifts in production. These precautionary mechanisms should take into account the situations existing at the time the common market is created.

Furthermore, if it should appear that harmful and abrupt price increases might occur in one or more regions, precautions should be taken to avoid such effects.

To cope with these problems during the transition period the High Authority shall where necessary authorize under its supervision:

(a) the application of the measures provided in Article 60, Section 2, subparagraph (b), as well as of zonal prices in cases not covered by the Chapter V of Title Three;

(b) the maintenance or establishment of national compensation funds or mechanisms, financed by a levy on the national production, without prejudice to the exceptional resources described below.



## SECTION 25

The High Authority shall establish a perequation levy per ton of coal sold, which shall represent a uniform percentage of producers' receipts, on the coal production of those countries where average costs are less than the weighted average of the Community.

The ceiling on the perequation levy shall be 1.5% of such receipts during the first year of operation of the single market, and shall be reduced each year by 20% of the initial ceiling.

On the basis of such needs as it recognizes to exist under Sections 26 and 27 below and excluding the special charges which might arise from exports to third countries, the High Authority shall periodically fix the amount of the levy to be effectively imposed, and of the governmental subsidies to accompany it, in accordance with the following rules:

(1) within the limit of the ceiling defined above, it shall calculate the amount of the levy to be imposed in such a way that governmental subsidies actually paid shall be at least equal to the amount of the levy;

(2) it shall fix the maximum authorized amount of the governmental subsidies, on the understanding that:

the governments may grant subsidies up to this amount, but shall not be required to do so;

the assistance received from abroad can in no case exceed the amount of the subsidy actually paid.

Additional charges resulting from exports to third countries shall not enter into the calculation of the necessary perequation payments or into the appreciation of the subsidies to accompany this levy.

## SECTION 26—BELGIUM

1. It is agreed that net Belgian coal production:

shall not have to bear an annual reduction of more than 3 percent as compared with the preceding year, if the total production of the Community is the same as or greater than that during the preceding year; or

shall not be less than Belgian production during the preceding year diminished by 3 percent, the figure thus obtained being further reduced by the coefficient of reduction applicable to the total production of the Community as compared with the preceding year (1).

The High Authority, responsible for the regular and stable supply of the Community, shall establish long-term forecasts of production and marketing and, after consulting the Consultative Committee and the Council, shall address to the Belgian Government recommendations setting forth the shifts in production it deems possible on the basis of such forecasts. This procedure shall continue as long as the Belgian market remains apart from the common market under the provisions of paragraph 3 below. With the agreement of the High Authority,

1. EXAMPLE.—In 1952—total production of the Community, 250 million tons; total Belgian production 30 million tons. In 1953—total production of the Community, 225 million tons. The coefficient of reduction is thus 0.9. Belgian production in 1953 should not be less than  $30 \times 0.97 \times 0.9 = 26.19$  million tons. 900,000 tons of this cut in production represents a permanent shift, and the balance, 2,910,000 tons, results from the economic situation.



the Belgian Government shall decide what steps are to be taken in order to bring about such production shifts within the limits specified above.

2. Perequation is designed, from the beginning of the transition period:

(a) to make it possible to lower the price of Belgian coal to all consumers of such coal in the common market to the vicinity of the forecast costs of production of such coal at the end of the transition period, with a view to bringing it as close as possible to the common market price. The price list established on this basis cannot be changed without the High Authority's approval.

(b) to insure that the Belgian steel industry shall not be prevented by the special system for Belgian coal from joining the common market for steel, and consequently to lower its prices to the level practised on this market.

The High Authority shall periodically fix the amount of the additional compensation for Belgian coal delivered to the Belgian steel industry which it deems necessary for the above purpose, taking into account all elements which affect the operations of this industry. In doing so, the High Authority shall ensure that such compensation does not have harmful effects on the steel industries of neighboring countries. Furthermore, in view of the provisions of sub-paragraph (a) above, such compensation should in no case lead to a reduction in the price of the coke used by the Belgian steel industry below the delivered price which it could obtain if it were supplied with Ruhr coke.

(c) to grant an additional compensation for such exports of Belgian coal within the common market as the High Authority may determine to be necessary in view of the outlook for production and requirements in the Community as a whole; such compensation shall correspond to 80 percent of the difference, determined by the High Authority, between the delivered price (F.O.B. plus transport) of Belgian coal and the delivered price of coal from other countries of the Community.

3. Notwithstanding the provisions of Section 9 of the present Convention, the Belgian Government may maintain or establish, under the control of the High Authority, mechanisms making possible the separation of the Belgian market from the common market.

Imports of coal from third countries shall be subject to the approval of the High Authority.

This special system shall be terminated as described below.

4. The Belgian Government agrees to eliminate the mechanisms described in paragraph 3 above not later than the expiration of the transition period. After consulting the Consultative Committee and with the concurrence of the Council, the High Authority may grant the Belgian Government not more than two additional one-year periods of grace, if it finds that exceptional circumstances not now foreseeable render such a step necessary.

The integration of the Belgian coal market into the common market thus provided shall take place following consultation between the Belgian Government and the High Authority, which shall jointly determine the means and procedures appropriate to achieve that end.



Notwithstanding the provisions of sub-paragraph (c) of Article 4, these procedures may entail for the Belgian Government the possibility of granting subsidies corresponding to the additional operating expenses resulting from the nature of its coal deposits, taking account of the charges which might result from obvious disequilibria which might increase such expenses. The procedures for granting such subsidies and their size shall be subject to approval by the High Authority, which shall ensure that the amount of the subsidies and the tonnage subsidized are reduced as rapidly as possible, taking account of the facilities for readaptation and of the extension of the common market to products other than coal and steel, and preventing the displacements of production which might occur from provoking fundamental disturbances in the Belgian economy.

Every two years the High Authority shall submit to the Council for approval proposals relating to the tonnage likely to require subsidies.

#### SECTION 27—ITALY

1. The Sulcis mines shall be entitled to benefit from provisions of Section 25 above, in order that, pending completion of the investment operations now underway, these mines may be able to face competition within the common market. The High Authority shall periodically fix the amount of the necessary assistance; external aid shall not be granted for more than two years.

2. In view of the special position of the Italian coking plants, the High Authority is empowered to authorize the Italian Government, to the extent necessary, to maintain customs duties on coke coming from the other member States during the transition period defined in Section 1 of the present Convention; during the first year of this period, these duties may not exceed those resulting from Presidential Decree No. 442 of July 7, 1950. This ceiling shall be reduced by 10% the second year, 25% the third year, 45% the fourth year, and 70% the fifth year, and these customs duties shall be eliminated entirely by the end of the transition period.

#### SECTION 28—FRANCE

1. It is agreed that coal production in French mines:

shall not have to bear an annual reduction of more than 1 million tons as compared with the preceding year, if the total production of the Community is the same as or greater than that during the preceding year; or

shall not be less than production during the preceding year diminished by one million tons, the figure thus obtained being further reduced by the coefficient of reduction applicable to the total production of the Community as compared with the preceding year.

2. In order to assure that production shifts are maintained within the above limits, the procedures outlined in Section 24 may be reinforced by exceptional resources financed through a special levy imposed by the High Authority on the increase in net shipments from outside coal mines, based on French customs statistics, to the extent that such increase represents a shift in production.



For the establishment of this levy, there shall be taken into consideration the quantities representing net deliveries effected during each period in excess of those during 1950, to the extent that they are correlated with a decrease in the production of French mines as compared with 1950, the latter figure being reduced by the same coefficient of reduction as the total production of the Community. This special levy shall not exceed 10% of the producers' receipts from the deliveries in question; in agreement with the High Authority, the proceeds shall be used for lowering in the appropriate zones the price of certain types of coal produced by French mines.

### *Chapter III—Special Provisions for the Steel Industry*

#### SECTION 29

1. It is recognized that special precautionary measures may be necessary for the steel industry during the transition period. The purpose of such measures shall be to prevent the production shifts which will result from the establishment of the common market from creating difficulties for enterprises which, after adaptation in accordance with Section 1 of the present Convention, would be in a position to meet competition, as well as from leading to the displacement of more workers than can benefit from the provisions of Section 23. To the extent that the High Authority deems that the provisions of the Treaty—in particular the provisions of Articles 57, 58 and 59 and Section 2 (b) of Article 60—cannot be applied, it shall have the power to resort to the procedures defined below in the order of preference in which they are listed:

(a) after consulting the Consultative Committee and the Council, the High Authority may limit directly or indirectly the net increase in shipments from one region to another in the common market;

(b) after consulting the Consultative Committee and with the concurrence of the Council both as to the appropriateness of these measures and as to their nature, the High Authority may make use of the means of intervention specified in Article 61, paragraph (b), even in the absence of the finding required by the said article that a manifest crisis exists or is imminent;

(c) after consulting the Consultative Committee and with the concurrence of the Council, the High Authority may establish a system of production quotas, without, however, interfering with production earmarked for export;

(d) after consulting the Consultative Committee and with the concurrence of the Council, the High Authority may authorize a member State to apply the measures provided in Section 15, paragraph 6, under the terms of the paragraph in question.

2. For the application of the above provisions, the High Authority shall, during the preparatory period defined in Section 1 of the present Convention and in consultation with the producers' associations, the Consultative Committee and the Council, fix the technical criteria for the application of the above-mentioned precautionary measures.

3. If the adaptation or the necessary transformations of production conditions cannot be carried out during a part of the transition period due to shortages, to an insufficiency in the financial resources which



the enterprises are able to derive from their operation or which can be placed at their disposal, or to exceptional circumstances unforeseeable at this time, the High Authority, after consultation with the Consultative Committee and with the concurrence of the Council, may extend the provisions of the present Section beyond the expiration of the transition period for an additional period not to exceed the time during which the situation referred to above has lasted, or two years, whichever is less.

#### SECTION 30—ITALY

1. In view of the special position of the Italian steel industry, the High Authority is empowered to authorize the Italian Government, to the extent necessary, to maintain customs duties on steel products coming from other member States during the transition period defined in Section 1 of the present Convention. During the first year of the transition period, these duties may not exceed those resulting from the Annecy Convention of October 10, 1949. The ceiling shall be reduced by 10% the second year, 25% the third year, 45% the fourth year, and 70% the fifth year, and these customs duties shall be eliminated entirely by the end of the transition period.

2. The prices practised by enterprises for steel sales on the Italian market, calculated on the basis of the point chosen for the establishment of each enterprise's price scale, shall not be less than the price listed in this scale for comparable transactions, except where authorized by the High Authority in agreement with the Italian Government, without prejudice to the provisions of the last paragraph of Section 2 (b) of Article 60.

#### SECTION 31—LUXEMBOURG

In applying the precautionary measures described in Section 29 of the present Chapter, the High Authority shall take account of the exceptional importance of the steel industry in the general economy of Luxembourg and the necessity of preventing serious disturbances in the special marketing conditions which result for the Luxembourg steel industry from the Belgian-Luxembourg Economic Union.

In the absence of any other measures, the High Authority may, if necessary, use the funds which are at its disposal by virtue of Article 49 of the present Treaty within the limit of the possible repercussions on the Luxembourg steel industry of the measures provided in Section 26 of the present Convention.

DONE at Paris, the eighteen of April, one thousand nine hundred and fifty-one.

ADENAUER.

P. VAN ZEELAND.

J. MEURICE.

SCHUMAN.

SFORZA.

JOS. BECH.

STIKKER.

VAN DEN BRINK.





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## PROTOCOL OF THE CONFERENCE OF MINISTERS CONCERNING THE INTERIM COMMISSION

The delegations which have participated in working out the Treaty will meet periodically as an Interim Commission during the interval between the signature of the Treaty and the establishment of the institutions of the Community. These delegations will consult with each other on problems interesting the Community and on the measures which the signatory governments might be called upon to take before the establishment of the High Authority.

They will study in particular the question of the seat of the institutions as well as that of the linguistic system of the Community, and will make appropriate proposals to the governments.

In addition, the delegations will study and prepare information to be placed at the disposal of the High Authority concerning the measures to be taken by the latter immediately following its establishment in application of the third paragraph of numbered paragraph 2 of Section 2 of the Convention.

The Conference of Ministers gives to this Commission the task of working out specific proposals concerning the actual allocation of seats on the Consultative Committee to the producers and to the consumers and dealers. For the producers, these proposals will be based on the value of the production in the different regions concerned, and for the consumers and dealers they will be based on the value of consumption, it being understood that these studies shall provide that the Committee will include, both for coal and for steel, at least one citizen of each of the member States.

ADOPTED BY THE CONFERENCE OF MINISTERS.

Paris, the eighteenth of April, one thousand nine hundred and fifty-one.

